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# TRIAL

OF

# WILLIAM W. HOLDEN,

GOVERNOR OF NORTH CAROLINA,

BEFORE THE SENATE OF NORTH CAROLINA,

ON

## IMPEACHMENT

BY THE HOUSE OF REPRESENTATIVES

FOR

## HIGH CRIMES AND MISDEMEANORS.

PUBLISHED BY ORDER OF THE SENATE.

## Vol. II.

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## TWENTY-FIRST DAY.

SENATE CHAMBER, February 23, 1871.

The COURT met at eleven o'clock, pursuant to adjournment, Hon. R. M. Pearson, Chief Justice of the Supreme Court, in the chair.

The proceedings were opened by proclamation made in due form by the doorkeeper.

The CLERK proceeded to call the roll of senators when the following gentlemen were found to be present.

Messrs. Adams, Albright, Allen, Barnett, Battle, Beasley Bellamy, Brogden, Brown, Cook, Cowles, Crowell, Currie. Dargan, Eppes, Flemming, Flythe, Gilmer, Graham, of Alamance, Graham, of Orange, Hawkins, Hyman, Jones, King, Latham, Lehman, Linney, Love, Mauney, McClammy, McCotter, Merrimon, Moore, Murphy, Norment, Olds, Price, Robbins, of Davidson, Robbins, of Rowan, Skinner, Speed, Troy, Waddell, Warren, Whiteside, Worth—45.

Mr. CONIGLAND proceeded to open the case in behalf of the respondent, he said:

MR. CHIEF JUSTICE AND SENATORS: In opening this cause for the respondent, I must avail myself, under the indulgence of this honorable court, of that latitude of discussion which seems to be conceded to the introductory speeches, in cases of this character and importance. However much I may be disposed to confine myself to a brief preliminary statement of the evidence we expect to adduce, I am controlled by the wishes of the respondent and my associate counsel who impose upon me the duty of presenting the subject in some amplitude of detail; and although I may be unequal to the task, I am under the necessity of undertaking it.

I entertain for this honorable court, the utmost deference; some of you I know to be gentlemen of high judicial attainments, and all of you, I feel pursuaded, are duly impressed

with the solemnity of the occasion, and regard an in
decision as a duty of binding obligation. But I sha
to you as men, subject as the best men are, to the fra
human nature. I shall not so far forget what is du
own candor, nor so insult your intelligence, as to disc
fears of a prejudiced judgment—such affectation cou
subject me to your well-merited contempt. When a
character, recently in the position of high authority, is
by a sudden turn of fortune, in the position of this
dent, the very fact of itself, shows that influences ad
his cause predominate, and make his conviction a
matter of certainty. The learned counsel, [Mr. Merrim
told us that the respondent stands charged with a
offence, and the record of events presents few, if any
ples where parties charged with such offences have
either clemency or forbearance when on trial before
foes. He might have told you also that the history o
cal offences, both in England and America, from the
times even until the days of Andrew Johnson, serv
exhibit the corruption of human nature ; the intempe
of the partizan, the licentiousness of faction, and t
cism, malignity and despotism of party spirit. H
have told you that although ostensibly undert
vindicate the constitution and the laws, they l
variably violated both. He might have told you,
studiously the instigators thereof may have attempte
ceal their motives under the specious plea of patriot
historian refers to them, not as efforts to punish
high places but as conspiracies to ruin and degrade
opponents,—not as examples of public virtue, but a
tions of partisan profligacy, and the foulest stains o
probity in the annals of jurisprudence.

The respondent has been brought to trial, cha
offences appertaining to his official duties. But le
would he have been impeached therefor had his ow
party been in the ascendent? It would savor mo

ness than of prudence, in the chief actors to arraign the governor of the state, before its highest tribunal, if they were not morally certain of a sufficient number of votes to secure his conviction. Professing, as I do, the utmost respect for this honorable court, and disclaiming all purpose to cast any, even the slightest reflection, upon the integrity of its members, I may be allowed to refer to a fact, which will pass into history, that the partisan press of the state, hailed with delight the probability of a two-thirds conservative majority in this body, because thereby the fate of the respondent would be sealed. The English judiciary is regarded as the most upright and impartial body of that description in the world; yet from previous knowledge of the political opinions of any judge, very accurate predictions are often made on the nature of his judgment in matters connected with state affairs.

In cases of this sort, we should keep steadily in view the influences which political antipathies, passions and prejudices exert over the minds of men. The most difficult thing for man to learn, says an ancient philosopher, is to know himself, and I cannot conceive any higher exercise of the moral sense than that which now rests on you to bring to the consideration of these charges an impartial judgment. Elected, as all of you were, in the very midst of the proceedings for which the respondent now stands impeached—belonging, as most of you did, to a widely different political organization, you insensibly received impressions hostile to his cause, whilst many of you hurled denunciations against him from the hustings, and yet, senators, your oaths requires you to bring to the decision of this case minds as free from blemish as the virgin snow. No man under the same circumstances, should be subjected to the obligation which such an oath imposes where there is any other means of punishing the alleged offender. In England, the tribunal for the trial of impeachments is an hereditary body, whose members, for the most part, occupy their positions in a strict line of succession, and who are supposed to be unaffected by, and far removed from, popular clamor. The senate of the

United States is composed of members, who are elected, not by the people, but by the legislatures of the various states for a term of six years; to these provisions we owe whatever of a conservative character remains to that body. But how is it with you? You hold your office by the same tenure—you were elected at the same time, for the same time, and by the same persons, as the members of the other house. You entered into the same political canvass; you were warmed by the heat of the same political conflict, and became imbued with all the prejudices of the very men who have preferred these articles of impeachment; and yet, senators, the oath which you have taken, requires you, by your hopes of eternal welfare, as you shall give an account of your stewardship on "the day of wrath, that dreadful day," to that omniscient God who will not hold him guiltless that taketh his name in vain, to decide this cause strictly according to the law and the evidence, an ordeal to which no man, under the same circumstances, should be subjected, save under a necessity equivalent to irresistible force—an ordeal through which no man, in the like position, can pass unharmed, in soul and conscience, save by prayer, in fear and trembling. It is to be hoped, as well for the triers as for the accused, that all such provisions may be stricken from the constitutions of those states, the branches of whose legislatures differ only in the designation of a name—convictions, for political offences, by such bodies, can carry with them no moral force. But yet, very recent times, furnish us with illustrious instances, of men who regarded the sanctity of an oath, as rising immeasurably above party affinities, popular clamor, and the denunciations of a powerful partisan press. The action of Fessenden and his compatriots of the same party, ranks among the highest examples of moral courage to be met with in judicial annals, and commands not only the respect, but the admiration, of all men who know the value of judicial probity to a nation. May they live long to realize the truth, "The just men only are free, the rest are slaves." Senators, I commend them to your emulation.

We are told, Mr. Chief Justice, by the managers and their associate counsel, that the offences of the respondent are not only flagrant, wicked and corrupt, but open and palpable. Why then this extraordinary precaution to insure his conviction? The house of representatives selected seven of their most distinguished members to conduct this impeachment, and fully competent to do so, gentlemen of such learning and experience that they may literally be termed the "seven wise men" of that body. But we find united with them three learned members of the bar who have occupied the highest positions within the gift of the state, the very weight of whose names carries with it great influence. Why is such a course resorted to, so unprecedented that few, if any, examples of the sort, can be found in the history of impeachment in England or America. Are the offences of the respondent so unheard of, are his crimes so black, that all avenues of escape must be closed on him? Or are you and his judges, so prejudiced in his favor, that you must be coaxed, flattered, and wooed and woon into meting out to him simple justice? Or does it arise from a fixed purpose to ruin and degrade an obnoxious political opponent? I ask the honorable managers, elected as they were to conduct the trial of this impeachment, and so fully competent to do so, why they have united with themselves three counsel, among the most distinguished of the North Carolina bar, to aid in the prosecution of the respondent? I beg permission to tell them that the body they represent should not contend for victory in this case—that it is as much their duty, as it it is the duty of the respondent's counsel, to see that he shall have a fair and impartial trial, and that in retaining associates, a course, at least so unusual, they leave the impression upon the public mind, of an over-zealous purpose to secure his conviction. Were William W. Holden ten times the malefactor he is represented to be. he would have reason to complain of this union of counsel and managers—were he as innocent of the matters laid to his charge as the new born babe, he might tremble for his fate. No man can fail to evoke sympathy who is prosecuted by ten members

of the bar, disposed, as the progress of this case proves, to place the very worst construction on all his words and acts—few may hope to pass unscathed through such an ordeal. Is not this enough? Might not those who clamor for the respondent's downfall, have been content to leave the prosecution with such an array of counsel, and the decision of the issue with the conscience of the court? What right-minded man can hesitate to condemn the course of partizan newspapers in pursuing the respondent, from the day of his impeachment until this day, with unrelenting ferocity? While much may be attributed to that demoralized sense which regards every species of attack as legitimate in party warfare, I would be untrue to the respondent if I failed to protest against that course, at war alike with decency and propriety, which persists, in contempt of this honorable court, in commenting on the answer of the respondent, in misconstruing and wresting from their meaning, its allegations, in attributing to him corrupt motives and a wicked purpose, with the evident desire and intent to influence the minds of his judges.

But the honorable manager [Mr. Sparrow] has told us, what I confess I had failed to discover, that this is not an attempt of a successful party, in the flush of their triumph, to depose from office one politically obnoxious to them, but that it is the uprising of an outraged and oppressed people to vindicate the law. Sir, I tell him that he is mistaken. The people of North Carolina sent their representatives here for no such purpose. I am fresh from the people, and I know their sentiments fully as well as any man in this body. Whatever may have been the errors of Governor Holden, whatever may be the general opinion as to the course of his administration, the true men of the country—the property holders of the country, the conservative portion of the people—regard this impeachment as ill-advised, unwise and inexpedient. At a time when a political victory, almost without parallel, filled them with the brightest hopes, they looked to this general assembly for that practical wisdom in legislation, which, by reforming the abuses of the past, would secure victory in

the future—which would bind up the wounds of this dear old state and enable her to take a new departure in a career of happiness and prosperity. They desired peace, and you have given them strife,—they asked for bread, and you have given them a stone.—they did not expect the energies of the house of representatives to be exhausted, and the time of this honorable body to be consumed, in an effort to remove William W. Holden from office, especially when, as it is alleged, for any offence which he may have committed against the laws, he is liable to the same pains and penalties as a private citizen. If I had any hope that, amid the turmoil of political passions, my voice could be heard and heeded, I would ask the honorable managers, yea I would implore them, to go back to the body they represent, to counsel them to a wise and prudent course of legislation, even to the withdrawal of these articles, and to look to God, their country, and an approving conscience for their reward.

But if the multitude, in fact, demand the immolation of this respondent, it is no evideuce of his guilt. Men, great in their day and generation, have been hurried to the scaffold under the force of popular clamor, popular execration, and false charges, whose characters are now bright and stainless on the page of history, when the contrivers of their death are remembered only to be abhorred. If, in fact, the honorable manager be correct, the obligation resting on the respondent's counsel, to be true to his defence, becomes still more imperative. While the approval of one's fellow citizens, secured by honorable effort, is grateful to the heart, yet the lawyer, having regard to his professional duties, must take counsel only of his own conscience. When he regulates his course by the applause of the multitude, or by the hope of personal preferment, he becomes a parasite and a timeserver, unfit to be trusted, and deserving the reproach of all good men. We are fully sensible of what is due to the respondent and to ourselves. We are not to be silenced either by the clamors of the few or the voice of the many. Though a thousand besieged these doors, gesticulating

with Brierean arms, and shrieking through throats of b
his conviction, we would endeavor to retain our equa
and still demand for him a fair and impartial trial. W
come here to speak for him, and we will speak for hi
have come here to defend him, and we will defend hi
know our duty, and God giving us health and stren
will do our duty. Our responsibility is great, but we
deavor to meet it with unwavering resolve and a cle
science.

The honorable manager who opened the cause refe
the spectacle presented on the occasion as without pre
He did not mean, I presume, to assign to it this charac
cause a governor of a state in the union now for the fir
stands impeached. The work from which he quoted so
is the report of the trial upon impeachment of a presi
the United States, charged with a purely political o
wherein, as here, political adversaries prosecuted the a
and wherein, as here, political adversaries appeared, 
afraid nor unwilling to defend him. But I admit
in some respects, the incidents attending this ca
without precedent. I have looked into impeachment
that have taken place before the senate of the United
and I find, that in no one instance, were articles of impeac
preferred without solemn investigation and enquiry, and
nation of persons and papers. I am not conversant wi
example of a different order of proceeding, save wh
Commons sat with closed doors, and preferred without e
accusations against the unfortunate Strafford—the first
that drama of crime which all christendom condemns.
our bill of rights which declares, that no man shall be b
to trial save on indictment, presentment or impeachment
but increased sanction to what long established usage ha
a principle of law binding upon the consciences of men,
that articles of impeachment, as bills of indictment, a
found upon solemn investigation and sworn testimo
know, and have the respect to the maxim *omnia presum*

*rite esse acta*, but not only the proceedings in this case before this honorable court, but the action of the impeaching body in connection therewith will pass into history, and lest our silence might be construed as an approval of any illegal, or unusual, preliminary measures violating the rights of the respondent, lest in the future such might be taken as a precedent to be followed instead of an injustice to be shunned, I ask the honorable managers when they address the court—I would be untrue to the rights of the respondent if I failed to ask them, was this thing done?

Did the impeaching body, in their zeal to bring this respondent to justice themselves, perpetrate an injustice? Did they who profess so much veneration for the constitution themselves, violate the constitution? Did they so swift to vindicate the rights of the citizen, so ignore those rights as to prefer articles, without evidence, against the respondent with the intent and purpose to degrade him from his high office, and to rob him of his immunities as a citizen of the state? Well may he exclaim with an illustrious victim of the French revolution, as she was led, in the name of liberty, to the guillotine "O Liberty what "crimes are committed in thy name!"

The honorable manager, Mr. Sparrow, in, I trust he will pardon me for saying, his very able address has given such a clear analysis of the charges that I may adopt them as my own, and content myself with a reference thereto, on pages 110, 111, and 112 of proceedings. It is not necessary for me to enter into a detail of the evidence we purpose to offer in reply to the charges. It may be sufficient to say that we expect to be able to prove all the material statements of the answer such as, in fact, are necessary, to the defence. There are allegations in the answer set forth, as resting only in the belief of the respondent, which in their nature are not susceptible of proof, and while he deemed it necessary to refer thereto as explaining the motives by which he was actuated, are not essential to his justification. But in deference to that maxim, which no one more fully recognizes than myself "*nil de*

*mortuis nisi bonum*, I may be allowed to digress so fa
declare that there was no purpose, on the part of the re
ent, to cast any reflection upon the memory of Jonathan V
and as no such conclusion can be drawn from what the a
says of his action, I would be silent on the point, but f
tempts which have been made to construe it differently.
not charged, and it was not intended to charge, that the
guished deceased had any connection with, or, knowingly
any countenance to the secret organizations to which the a
refers, but simply that his protest against the constitutio
and legality, of the reconstruction acts, in which opinion m
us, myself included, concurred, and especially his intimatic
he submitted to his displacement under a species of force, c
from so high a source, was made among other things, th
text by bad and misguided men, to unite others with
selves, in their treasonable associations. Speaking for n
I regarded Jonathan Worth as a good as well as an abl
and a patriot, but I regretted the appearance of the prote
still regret it.

Returning to the evidence we propose to offer, it w
believe, satisfy the minds of the court, that there existed
associations in the counties of Alamance and Caswell, ha
common purpose and design to subvert the laws by th
intimidation, acts of outrage and murder: that the
associations, in furtherance of such their purpose and c
committed in the said counties many and various outrag
cluding six or seven murders, through the agency of a n
of disguised men with arms in their hands; that th
associations exercised such extensive control and espionag
and within the said counties, that witnesses could not
duced to testify, or grand juries to present, whereb
ordinary administration of the laws became wholly inad
to protect life, property or the public peace.

The question arises, whether in case we succeed in p
what I have stated, it is sufficient for the defense. The

gers insist that it is not, for the following reasons, as I understand them.

First: That the allegations proposed to be proved do not constitute an "Insurrection" within the meaning of the constitution.

Secondly: That the act commonly known as the "Shoffner Act" does not authorize the offences with which the defendant stands charged; but, if, in fact, the respondent can show that he acted thereunder, he is, nevertheless, guilty, because the said act is unconstitutional and void.

Thirdly: That if the respondent can justify to the extent of declaring the counties of Alamance and Caswell in a state of insurrection, he is nevertheless guilty in this, that he arrested and detained without warrant, innocent persons, and especially, that he refused to obey, in their behalf, the exigency of the writ of *habeas corpus*.

Fourthly: That even supposing the foregoing propositions to be untenable, the respondent is still guilty in the maltreatment of the parties who were under arrest.

To this the respondent replies

First: That there has never been any judicial construction of the meaning of the word "Insurrection" as used in the constitution of North Carolina.

Secondly: That all acts of the legislature are presumed to be constitutional, until declared otherwise by a tribunal of competent jurisdiction.

Thirdly: That his office of governor is executive and administrative and not judicial.

Fourthly: That the Shoffner Act has never been declared unconstitutional by any judicial tribunal of competent jurisdiction, and, therefore, he is not to be condemned in executing its provisions.

Fifthly: That in declaring the counties of Caswell and Alamance in a state of insurrection, he acted within the provisions of the said act, and upon the very state of facts contemplated by the legislature in the enactment thereof.

Sixthly: That by the force and effect of said act, his action thereunder in proclaiming the counties of Alamance and Caswell in a state of insurrection, cannot be made the subject of trial, or enquiry with a view to trial, by any other department of the government.

Seventhly: That if he had the legal power and authority to declare the said counties in a state of insurrection, he was justified In arresting, without warrant, all suspected persons therein, and of detaining the same, until such time asthe public safety permitted their surrender to the civil authorities, and this notwithstanding the exigency of the writ of *habeas corpus*.

Eightly: That the alleged maltreatment of arrested parties, was done contrary to the orders of, and without the procurement, knowledge or consent of the respondent, and he is not to be held answerable therefor.

The allegations that the respondent organized forces in a manner unauthorized by law, composed of men of bad character, and that he acted in contempt of a pending injunction in paying said forces from funds in the treasury, he meets with a general denial.

Were I to attempt a full discussion of all the matters presented by this analysis, I would weary your patience and exhaust myself. I think I have presented fairly the points on each side, and I must leave the view which we take of them to be presented, in a great measure, by my associates. Nor shall I add much to the consideration of the meaning of the term "Insurrection" as used in the constitution of North Carolina, as that has been gone into very fully already. Indeed the learned counsel seem to differ among themselves on this point—Mr. Merrimon draws a distinction between "insurrection" and "treason." Mr. Bragg says "The gentleman on the other side may or may not be right in saying that insurrection is not always treason," and Mr. Graham, page 404 of proceedings says:

"So that, in order to justify a proclamation like this, there

"must have been treason, and in order to constitute treason "there must have been on open act of resistance."

He cannot give up the idea that the terms are convertible, notwithstanding it is not, in fact, insisted on by his associates, nor has he cited any authority, in answer to my enquiry, to sustain him on this point. I insisted, in my previous argument, that the terms are not convertible, and beg to quote Bac. Ab. vol. 9, p. 396:

"In other books it is laid down, that an insurrection with a "design to break open one jail, and set the prisoners therein at "liberty, is not an overt act of levying war against the king, "but that an insurrection with a design to break all prisons, "and set all prisoners at liberty is."

Thus drawing an evident distinction between the two offences, and coming very closely to Mr. Merrimon's definition. But it is a distinction without a difference so far as the conclusions of the learned gentlemen are concerned ,for they concur in the view, that the facts we propose to prove do not constitute an "insurrection," and they all insist that we must prove the "overt act." Now the "overt act" as applied to treason, is very familiar to me, but the "overt act" of an insurrection, is of a "new impression," and I am not aware of having ssen it discussed in the books; but the research of the gentlemen is so great that, I have no doubt, they have made many discoveries for the purposes of this case, which, as they are developed, will startle us all. Indeed, Mr. Merrimon says, p. 325 of proceedings:

"They must show that these secret organizations then, in "the night time or in the day time, appeared in great numbers "and exhibited in a violent way, a purpose of resistance to the "laws. They cannot show that A. B. was killed, that C. D. "was drowned, and that E. F. was whipped, until they first "show an overt act on the part of this combination, or some of "its members for the purpose of resisting the execution of the "law, or of subverting the state government under the recon-"struction acts."

And Mr. Bragg says, p. 368, of proceedings, that in Bolman *vs.* Swartout, "it was ruled by the highest authority in the land "that they should begin by first proving the overt act." I can find no such point decided in that case. It is very clear that no conviction for treason can be had unless the overt act is proved, but it is not first in the order of proof, and I am not aware that it has ever been so held. In no class of cases is the intent and design more necessary to be proved than in cases of treason. Acts which would amount only to riot, become treasonable when in execution of a design to overturn the government or subvert the laws, and the very first point to be proved in the trial of such cases is the existence of the common design, and when once the common design is proved, any species of outrage on persons or property, by a number of armed men, whether by "one hundred or one thousand, in furtherance of that design is treason, and for this the very case of Bolman and Swartout, is in my opinion, a decided authority. So have it as they will, I insist that if we can prove the existence of secret organizations in Alamance and Caswell counties, with the common purpose and design of subverting the government and the laws, and that in furtherance of that design, a number of them, disguised or otherwise, with arms in their hands, in the night time, or in the day time, "killed A. B., drowned C. D., whipped E. F." they are guilty of treason, and so are all, who are parties to the common design, whether present or not. And this I understand to be a general principle of law, and so held in effect in Bollman vs. Swartwout. In the Irish rebellion of 1798, the turning point in the evidence against some of the famous "state prisoners," was the secret meeting at McConn's in Dublin, when the designs, purposes and plans of the "United Irishmen" were discussed. And so, I insist, that, the allegations set forth in the answers, if proved, make the Kuklux associations in Alamance and Caswell, treasonable associations, to all intents and purposes, and all belonging to them guilty of treason.

The learned counsel, Mr. Bragg, in referring to my remarks

on the point of insurrection, represented me as sustaining oppressive English laws as applied to Ireland, but he entirely misunderstood me. I referred to and quoted the debates in the English parliament on the "Irish Insurrection Acts" to show that secret associations in Ireland of a like character with those of Alamance and Caswell, were known and denominated in the very titles of the acts passed to suppress the same as "Insurrection" acts. And I insisted, and do still insist, that these acts passed by a body, numbering among its members the most learned and distinguished lawyers in England, Ireland and Scotland, must be regarded as conclusive authority, that the state of facts we propose to prove in reference to Alamance and Caswell counties, do constitute an "Insurrection."

The learned counsel insist that the clause of the constitution of the State giving the governor the power to call out the militia to suppress "insurrection," contemplates only an open, armed resistance to the law, and that the power can be executed only in such an event. Let us examine for a moment the operation and effect of this doctrine. Such open, armed resistance on the part of a number of persons, with the design of subverting the government or the laws, cannot be the work of the moment. It must be preceded by meetings and combinations where the purpose has been formed and the means to execute it discussed, and the history of such lawless proceedings proves such to be the case. Indeed, an insurrection must be the work of a combination or combinations of men, with a common unlawful purpose. According to the doctrine laid down here by the counsel, such combinations may be formed, and may meet day after day, or night after night, and perfect their plans to subvert the government or the laws; and yet the gentlemen say they are amenable only to the civil power. Well, I may admit that to be so, provided the civil power is equal to the emergency. But let us suppose that such combination extend in their ramifications throughout a county, or a large section of county, that they include a certain class of society, whether black or white, and overawe, or control, the

grand jury, and influence the action, by terror, threats or otherwise of the peace officers; let us suppose, that, in furtherance of their design to overthrow the government, or subvert the laws, in their daily, or nightly meetings whether in public or in private, they mature their plans, go through their drills, with cornstalks in their hands, collect arms at various points, and agree, on a day certain, to march upon the capitol, now the learned counsel say, that the governor cannot call out a single militia man to suppress this incipient treason, but that he must stand with folded arms, until the very day when they assemble, "armed and equipped" according to law, in which case before he can organize his militia, and bring them into the field against the insurgents, the capital may be burned, property destroyed, and lives sacrificed. Such a doctrine cannot be acted on by any government, whether monarchical or republican, with any regard to its own existence, or to the property and lives of its citizens—indeed, it is only my respect for the learned counsel, that prevents me from designating it as too untenable for serious argument.

We insist, sir, that the power to call out the militia to suppress insurrection, as vested in the governor by the constitution, may be exercised to suppress all combinations, having for their purpose the subversion of the laws, at any period of their existence when they are too strong for the civil power, or have rendered the same inefficient. And were the governor to stand by inactive and instead of suppressing such combinations at once, allow them so to perfect their plans that it might require a large force and the sacrifice of many lives to overcome them, he would be alike untrue to the interests and safety of his fellow citizens, and to his oath of office, and would, indeed, richly merit impeachment for his criminal neglect. I will not dwell further on this point, but beg to direct the attention of the court to the argument thereon of my associate, Mr. Smith, pages 398, 399 and 400 of proceedings.

The learned counsel, Mr. Graham, refers to the Earl of Lancasters case, as illustrating the great regard of the English

constitution for the liberty of the citizen, and his right, when the courts are open, to be tried by a jury. I was not aware, that a prince of the blood, or a peer of the realm, was ever subjected to a trial of the sort. But, historically considered, I deem the citation a very unfortunate one. The facts are that Edward II, having subdued the Earl of Lancaster and put him to death under the sentence of a military court, thereafter sent his Queen into France to negotiate with Charles II, her brother. She proved untrue, and with the aid of Mortimer her paramour, seconded by Leicester, Lancaster's brother, Edward II was murdered in prison, and his son succeeded as Edward III. In the very first year of whose reign Lancaster, brother of the former Earl, being then in the ascendant the attainder was reversed. It was no triumph of law, no vindication of personal liberty, but simply the triumph of Lancaster's party, and I submit an extract from Hume's history of England, volume 1 page 327: "The violent party, "which had taken arms against Edward II, and finally deposed "that unfortunate monarch, deemed it requisite for their "future security, to pay so far an exterior obeisance to the "law, as to desire a parliamentary indemnity for all their ille-"gal proceedings; on account of the necessity which, it was "pretended, they lay under, of employing force against the "Spensers and other evil counsellors, enemies of the king-"dom. All the attainders also, which had passed against the "Earl of Lancaster and his adherants, when the chance of "war turned against them, were easily reversed during the "triumph of their party." And this, sir, is the case referred to as vindicating the rights of the citizen, the reversal of an attainder, when attainders were passed, or reversed, as the different parties rose to the ascendant. The reason given for the reversal, in the instance referred to, was simply a mere pretext, as the original authorities prove; for Lancaster was taken not only in open rebellion, but when actual war existed between England and Scotland, and he in league with the Scots.

But why are we cited to examples which occurred five centuries and a half ago. William W. Holden is not to be judged by the "light of other days," but by what is transpiring around us. More practical lessons, bearing upon our rights and duties, can be learned from the history of the last decade, than from all the attainders that were passed, or reversed, during the wars of "the white rose and the red rose." I was somewhat amused, perhaps it should have inspired sad reflections, over the apostrophe to liberty by my learned friend, Mr. Sparrow, not liberty in the general, or liberty in the abstract, but to the battle for liberty which North Carolina is now fighting, not only for herself but "in the cause of all free people, and of all "people struggling to be free, the world over; the cause of "New York and Missouri as well as of North Carolina." Well, I suppose we owe them a debt of gratitude, and as they aided us greatly "in the battle for life," it evinces but a proper appreciative sense to pay them back in kind, and, in deposing this tyrant, William W. Holden, to give, not only to the citizens of those States, but to the authorities at Washington, also, an enduring evidence of the might of "an outraged and oppressed people," when they rise "to vindicate the violated law." Do we live in the enjoyment of constitutional freedom (?) asks my learned friend. Well let him answer that question not by what happened in the days of York and Lancaster, but what has occurred in the days of Andrew Johnson and Ulysses S. Grant, two personages who have influenced our history fully as much as either of the aforesaid rival houses.

But, seriously, sir, the history of the times in which we live, and the views which have been adopted, during the last ten years, of the power of the government under the constitution, should have a most important bearing on the decision of this question. Why should Governor Holden be held up here as the incarnation of wickedness in administering, as we will prove, the laws of his state, and others in executive positions, or who have held such, lauded or excused, when their acts are

brought in contrast with his? Gentlemen should, at least, be consistent. Do my friends forget when some five years ago, they stood, with bated breath, not knowing when they might be hurried to prison, or tried by a military court? When acts, so much more oppressive than the worst attributed to this respondent, that they do not admit of comparison, were of daily occurrence. Who then among us delivered eulogiums on liberty? I well remember, in the other chamber of this capitol, when a question was under discussion in which some regarded the honor of North Carolina as involved, a telegram from Andrew Johnson made a change of some fifty votes, and caused the "war debt" to be repudiated. And even when my associate, Mr. Smith, referred to the refusal of Mr. Lincoln to respond to the *habeas corpus* in the case of Merryman, the distinguished gentleman, Mr. Graham, in answer thereto, finds no word of censure, but refers to Mr. Lincoln as acting "within the sphere of his powers" in a time of war; but "in judgment of law, the court sbeing open" it was a time of peace. The principle here enunciated is the very key-note of his speech, and when tested by the criterion he has introduced for our guidance, he is estopped from saying that the cases are parallel. But there is, I admit, this radical difference, the action of the respondent had reference to, and was in accordance with, an act of the legislature of own state, while the action of Mr. Lincoln was without any special law to warrant it—quite as much value would be attached to the eloquent dissertation of the learned counsel on the rights of the citizen, were he less partial in his censures.

The history of our own days is full of examples wherein the executive of the nation, in states where "the courts were open" and uninterrupted in the discharge of their functions, exercised the authority to arrest and detain suspected persons—insomuch that in any part of the United States, not only in the "rebellious" districts, but among the most peaceful communities, the only thing necessary to secure the imprisonment of any citizen, was the "ringing of a little bell" by the secretary

of state. The seizure of the Maryland legislature, and the records of Fort Lafayettee, the cases of Vallandigham, of Ohio, Wall, of New Jersey, and a large number of others, show what value is to be attached to the criterion which the gentlemen would establish "When the courts are open there is a state of peace."

Even in our day, and very recently, events have occurred which strikingly illustrate how utterly inefficient the principles enunciated by the learned gentleman, became in countries over which the English constitution spreads its wings. We have not forgotten the troubles in Jamaica. I read from the Annual Cyclopadia for 1865, title Jamaica, page 449: "Gordon was a "resident of Kingston; he had not been absent from that place "during the disturbances; he was in Kingston when he was "arrested; no attempt was made to disturb the peace in King-"ston; all the courts were in the uninterrupted exercise of "their functions—nevertheless, the governor deemed himself "justified in ordering Gordon to be brought on board the "Wolverine, and in conducting him to Morant Bay for the "purpose of having him there placed before the court-martial. "When he arrived in Morant Bay, he found—as he himself "states in a despatch to Mr. Cardwell—the rebellion "crushed." "The columns of soldiers who had been sent into the interior "returned, and reported that they had not met with armed "resistance, that they had not lost a single man, but shot and "hung, without the least form of trial, hundreds of persons "suspected of being implicated in the rebellion. Notwith-"standing, Gordon was placed before the court-martial, and "found guilty. The evidence brought forward against him, "stated that Mr. Gordon had been seen on a Sunday at a certain "chapel at which Paul Bogle, the so-called rebel leader, "worshipped; that somebody had said that Mr. Gordon had "sent word for the people of a certain district in the parish to "hold a meeting; that certain placards in blank had been found "in Mr. Gordon's portmanteau; that a placard headed "The "state of the Island" (in which there was not a single word of

"disloyalty or sedition) had been penned by Mr. Gordon; that "he had used some strong language in a meeting of the people "hs had some weeks before addressed in the parish of Vere; "and that he had written a letter to one Chesholm, addessing "him with reference to the sufferings of the people, to "pray "to God for help and deliverance."

"Mr. Gordon protested solemnly against having had know-"ledge of or part in the plot, nevertheless, Governor Eyre "sanctioned the finding of the court-martial, and Gordon was "hung October 23d.

A very forcible commentary on the text I have been considering.

I now propose to discuss the question with reference to the acts of the legislature of this state, under which, we insist, the responded proceeded. And, in the first place, I will consider the statement of the learned counsel, Mr. Merrimon, that "The whisky insurrection, and any other insurrection, in the United States, consisted in open armed resistance to the laws, I submit an extract, from the proclamation issued during the administration of Washington, in reference to the "Whisky insurrection" describing a state of affairs almost the parallel of that referred to in the respondents answer. I quote from Statesman's Manual, vol. 1, p. 51

'Whereas, combinations to defeat the execution of the laws "laying duties upon spirits distilled within the United States "and upon stills have, from the time of the commencement of "those laws, existed in some of the western parts of Pennsyl-"vania; and whereas, the said combinations, proceeding in a "manner subversive equally of just authority of government "and of the rights of individuals, have hitherto effected their "dangerous and criminal purpose by the influence of certain "irregular meetings whose proceedings have tended to encour-"age and uphold the spirit of opposition by misrepresentations "of the laws calculated to render them odious; by endeavors "to deter those who might be so disposed from accepting offices "under them through fear of public resentments and of injury

"to person and property, and to compel those who had accepted "such offices by actual violence to surrender or forbear the "execution of them; by circulating vindictive measures against "all who should otherwise, directly or indirectly, aid in the "execution of the said laws, or who, yielding to the dictates of "conscience and to a sense of obligation, should themselves "comply therewith; by actually injuring and destroying "the property of persons who were understood to have so "complied; by inflicting cruel, humiliating punishments "upon private citizens for no other cause than that of appear-"ing to be the friends of the laws; by interrupting the "public officers on the highways, abusing, assaulting, and "otherwise ill-treating them; by going to their houses in the "night, gaining admittance by force, taking away their papers, "and committing other outrages; employing for these unwar-"rantable purposes the agency of armed banditti, disguised in "such a manner as for the most part to escape discovery; and "whereas, the endeavors of the legislature to obviate objections "to the said laws, by lowering the duties and by other altera-"tions conducive to the convenience of those whom they im-"mediately affected (though they have given satisfaction in "other quarters), and the endeavors of the executive officers to "conciliate a compliance with the laws, by expostulation, by "forbearance and even by recommendation founded on the "suggestion of local considerations, have been disappointed of "their effect by the machinations of persons whose industry to "excite resistance has increased with the appearance of a dis-"position among the people to relax in their opposition and "to acquiesce in the laws; insomuch that many persons in the "said western parts of Pennsylvania have at length been hardy "enough to perpetrate acts which I am advised amount to "treason, being overt acts of levying war against the United "States."

I next refer to the laws of the state of New York, and will read from chapter 3 of the statutes of that state for the year

1845, entitled "an act to prevent persons appearing disguised and armed."

"Every person who having his face painted, discolored, "covered or concealed, or being otherwise disguised in a man- "ner calculated to prevent him from being identified, shall "appear in any road or public highway, or in any field, lot, "wood or enclosure, may be pursued and arrested in the man- "ner hereinafter provided; and upon being brought before "any judge or other officer hereinafter designated of the same "county where he shall be arrested and not giving a good "account of himself, shall be deemed a vagrant within the pur- "view of the second title of chapter twenty of the first part of "the revised statutes, and on conviction as provided in the "said title shall be committed to and imprisoned in the county "jail of the county where such person shall be found for a "term not exceeding six months, and all magistrates author- "ized in and by the first section of the second title in the "second chapter of the fourth part of the revised statutes, to "issue process for the apprehension of persons charged with "any offence, are authorized and required to execute the powers "and duties in relation to the effence created by this act, which "are conferred and imposed on justices of the peace by the "said second title of chapter twenty, and all other powers and "duties conferred and imposed by this act.

"Every sheriff, deputy sheriff, constable, marshal of a city, or "other public peace officer, or other citizen of the county where "such person or persons shall be found disguised as aforesaid, "may of his own authority, and without process, arrest, secure, "and convey to any such magistrate, residing in the county "where such arrest shall be made, any person who shall be "found having his face painted, discolored, covered or concealed, "or being otherwise disguised as aforesaid, to be examined and "proceeded against in the manner prescribed in the said second "title of chapter twenty; and it shall be the duty of any sheriff, "deputy sheriff, constable, marshal, or other pace officer, when- "ever any of them shall discover any person with his face so

"painted, discolored, covered or concealed, or being other
"disguised as aforesaid, immediately to arrest, secure, and cor
"such person to any such magistrate, to be proceeded
"according to law, and whenever any such officer shall rec
"credible information of any person having his face so pain
"discolored, covered, or concealed, or being otherwise disgu
"as aforesaid, it shall be the duty of every such officer f
"with to pursue such person, and arrest, secure and convey
"to any such magistrate."

I refer also to chapter 69 of the same statute:

"Whenever the governor shall be satisfied that the execu
"of civil or criminal process has been forcibly resisted in
"county or counties of this state, by bodies of men, or
"combinations to resist the execution of such process by
"exist in any such county or counties, and that the pow
"such county or counties, has been exerted, and is not suffi
"to enable the officer having such process to execute the s
"he may, on the application of such officer or of the di
"attorney of such county, or one of the judges of the co
"courts thereof, by proclamation to be published in the
"paper, and in such other papers as he shall direct, declare
"county or counties to be in a state of insurrection; and
"order into the service of the state such number and de
"tion of volunteer or uniform companies or other militia o
"state as he shall deem necessary, to serve for such term
"shall direct, and under the command of such officer or of
"as he shall think proper; and the governor may, whe
"shall think proper, revoke, or declare that such proclam
"shall cease at such time and in such manner as he shall di

I read also an extract from the message of Silas Wright, governor of New York, dated January 6th, 1846: "Th
"had not long been in force when it became apparent tha
"hopes entertained of its salutary influence were not
"realized." Confidence in the disguised became stronger
"the fear of punishment, and parties of disguised men beg
"show themselves in the excited districts. The cour

"Delaware, heretofore comparatively peaceful, became the "theatre of more active and open resistance against the officers "of the law than had previously prevailed elsewhere. The "assemblages of disguised men were more frequent, more "numerous, and their proceedings more daring and desperate "than had characterized the disturbances in any other quarter. "So also the lawless outrages and their perpetrators were met in "that county more promptly, firmly and energetically than they "had been before encountered without the aid of a state mili- "tary force; and the law-abiding citizens of the county, led on "by their civil officers, to their lasting honor overcame the "resisters by their own unaided efforts."

Governor Wright declared the "anti-rent" counties in insurrection. In 1855 movements of the same description took place in Indiana, wherein a combination of persons, a secret association known as "Black Boys" or "Regulators," committed various outrages under the cover of disguise and otherwise, in Clay county in said state, which culminated in the "destruction of Birch Creek Reservoir, a necessary and indispensable feeder of the Wabash and Erie Canal." My extracts are from the proclamations of Gov. Joseph A. Wright, of Indiana, issued May 24th and June 7th, 1855, which I now hold in my hand. I have not been able to trace the legislation of Indiana in reference to the matters I have stated, but it is well known that Gov. Wright sent a military force to Clay county to suppress the disturbances.

When we consider that the courts were, in fact, powerless in Alamance and Caswell counties for the suppression of outrage, and the preservation of the public peace, we have a state of affairs almost precisely parallel to that described in all the extracts which I have submitted.

I will now address myself to what I regard as the turning point of this case, namely: That the acts for which the respondent stands impeached, are within the provisions of an act of the generably assembly of NorthCarolina, entitled "An act to secure the better protection of life and property" ratified the

29th of January, 1870, and commonly known as "The Shoffner act," and which, we allege, was passed in contemplation of the very state of affair, which induced the respondent's action in Alamance and Caswell counties. Should it appear that I am right in this, I will insist, that the respondent is entitled to an acquittal.

The governor of North Carolina, before entering on the discharge of the duties of his office, is required to take an oath "That he will support the constitution and laws of the United "States, and of the state of North Carolina." Who is to be the judge of how he shall discharge his conscience—must the legislature or must he, answer therefor to God? I admit that when the supreme court ofthe state has rendered a decision, fixing the construction of any act of the general assembly, or of any constitutional provision, the executive officer is bound to follow it, because such decision becomes until, overruled, the law of the land. But when the act is of the first impression, there being no decision of the supreme court, and no established usage of the government to control it, it is presumed to be constitutional, and should be followed by all executive and administrative officers. And for this presumption there is express authority in our own courts.

In the impeachment trial of Andrew Johnson, the point was raised and very fully discussed. The managers insisted, that the President had no discretionary power to judge of the constitutionality of an act, but that he was bound to execute the same, whilst the counsel for the President insisted on the reverse of the proposition. We cannot refer to a point, wherein the opposing counsel on that trial differ, as of any authority—but wherein they agree should be of great weight with us. But Mr. Groesbeck, an able advocate and good lawyer, one of the counsel for the President admits the proposition which I have laid down, Johnson Trial, vol. 2, p. 200

Let us consider the operation of the principle which would bring the governor of a state before the court of impeachment upon charges originating in his obedience to an act of the legis-

lature. If he disobey the act he is liable to be removed from office and disfranchised, if he fail to obey he is liable to the same penalties. So in this instance, if the respondent had sent in a message to the legislature upon the passage of the act, that he regarded it as unconstitutional, ands hould not disobey it, he would, undoubtedly, have been impeached; but he is now impeached for acts which, we insist, were authorized thereby, and we are met with the allegation, that supposing the act contemplated and authorized the course he pursued, it was unconstitutional and void, and he is guilty because he did not disobey it—so that he becomes guilty, or not guilty, according to the political complexion of this, or that legislature, just as attainders were passed or reversed, in the wars of the white and red roses, as one party or the other attained the ascendant.

If the learned counsel be right, then something must be added to the qualities which have been heretofore regarded as fitting a man for high executive position. He should not only be able and upright, with a knowledge of his own, and of past times, and possessing an administrative order of mind, but the gift of prophesy should be added thereto, in order that he may have the power to foresee and anticipate the action of subsequent legislative bodies. Nor indeed do I know, even in such case, how he could preserve himself from harm, for if in his researches into the future, he should discover that there must arise irreconcilable differences between the legislature that presents an act to be executed by him, and the legislature that may thereafter represent "the will of the people," I cannot understand what course of action he must pursue, in order to save himself harmless. To all the qualities I have enumerated there should, likewise, be added the wisdom of a Solomon.

I call the attention of this court to the very point which was anticipated in the previous argument, namely the refusal of Governor Caldwell to obey the act recently passed by this legislature and known as the Convention act. Now sir in what position does this place the impeaching body? If they insist on the doctrine of the learned counsel, that the governor

is to judge of the constitutionality of an act, they must concede the legality of Governor Caldwell's action—if they do not concede the legality of Governor Caldwell's action, they must admit that the principle we insist on is right. The respondent may adopt the exclamation of Brougham, who never forgave the prosecutors of Queen Caroline, when Peel made a slip in debate, "The Lord hath delivered them into our hands." I trust that the counsel will not be so reticent on this point as in their previous remarks.

But the Shoffner act must be regarded, to all intents and purposes, as the act of the impeaching body, and of this body, until it was repealed by both. The present legislature had no other mode of signifying its disapproval of the act than by a repeal thereof. The repeal was simply a legislative declaration that the act was no longer of binding force, and should no longer be administered by the officers of the government until the repeal thereof, there being no constitutional decision impeaching its validity, it was the law of the land, and we have now the singular case of a legislative body condemning the chief executive officer of the state, for obedience to their own acts. But if the act was unconstitutional, void, and of no binding force, why repeal it at all. In whatever way the principle enunciated by the learned counsel is regarded, they are involved in a labrynth of inconsistencies.

Let us now consider the misehief the act was intended to remedy, and this I propose to discover by citations from the debates on the passage of the "Masking bill," and also on the passage of the "Shoffner act," which are not only regarded as legitimate, but the very best, means of discovering the legislative will. As to the Masking bill, I read from the report in the *Standard* of March 25, 1869:

"Mr. Downing said he was not astonished at the opposition "of the gentleman from Cleveland. It was remembered by the "house at the last summer session during the consideration of "the bill called the police bill, or the militia bill, to prevent "disturbances at the approaching election, the gentleman's oppo-

"sition was very pointed. When he [Durham] predicted that "if the bill should pass it would result in disorder, that the "people would not submit to it, the majority of this house took "the ground that that was a preventive measure, and if it were "pased it would have the effect of keeping order at the elec-"tions. The result proved who was correct on that subject. "Although there were some undue influences exercised in pre-"venting parties from voting at the polls, there was quiet and "order, and all men were allowed to exercise the right of voting "without any restriction, except in one single county, there was "some disturbance, and that was in a county belonging to the "congressional district which the gentleman from Cleveland "did *not* represent. This measure is a preventive entirely. "If it be passed, it will deter men from doing as they are doing "now, and the execution of the law will not be necessary. It "is astonishing how sensitive the gentleman is in a measure of "this kind. Does he sympathize with these men? Is that "what we are to understand from this opposition to such mea-"sures? It would appear so! Believing the bill should pass "speedily, he called the previous question.

I now call attention to the remarks of Mr. Durham in the said debate. "Mr. Durham said, as he did yesterday, it would "be a perfect outrage to pass this bill. Every sensible man "knows that what constitutes a crime is the intention. The "bill prescribes that a certain action shall be a crime, without "intention. Murder consists in killing with malice afore-"thought. Men should be punishable, if they masked them-"selves for the purpose of committing outrages. A jury "should be allowed to take the positive proof and the circum-"stantial evidence, and ascertain whether the person disguised "himself for the purpose of committing a crime or not, and "not leave it to the man who meets him in disguise to decide "whether he intends to commit a crime."

I next read from the *Standard* of April 8th, 1869. "Mr. "Robbins said the great object of this bill was to execute "summary justice upon bands of men who were going through

"the country taking matters into their own hands. He con-
"sidered that this bill gave the same power in the hands of
"other men. How could a man in an excited state of mind
"judge correctly whether a man disguised was so with wrongful
"intent? Again, if a Kuklux goes along the road and a citizen
"meets him and demands his surrrender, Mr. Kuklux is going
"to kill him right off.

"Mr. Shoffner wanted to know if the band of Kuklux that
"went through Graham the other day, if they had known they
"would be fired on, would not have surrendered when
"told to do so. Mr. Robbins said no. If they had known they
"would have been fired on they would have fired first. He
"was as much opposed to these lawless bands as any one, and
"wanted them put down, but he should oppose this bill as
"leading to much trouble. This bill was ineffective. It would
"result in the killing of the citizen, instead of the man who
"ought to be killed—the Kuklux. He believed we had a
"government and officers who could keep the peace instead of
"putting the law into every man's hands. He would vote for
"the substitute although he considered it ineffective."

The whole debate shows that the bill to make going masked and disguised a felony was a preliminary measure for the suppression of bands of men, who were going through the country committing these outrages. There are a great many more, and I will not occupy the time of the court by reading them, but I will refer to the file of the "Sentinel" of April 7th, 1869:

"Mr. Graham said that he agreed with the senator from
"Guilford, that the influential men of the State should dis-
"countenance and discourage all attempts at violence, and
"should endeavor to control public opinion. But by this leg-
"islation you destroy their influence. As has been said the
"first two sections of this bill will authorize any person to slay
"another and paint his face and no inquiry is made to ascertain
"the murderer. Why only last night in this city an attempt
"was made te assassinate and murder. Suppose the attempt
"had succeeded. If this law was in operation and the corps

"brought out into the street, and painted or disguised, would "it not have been said that it was merely killing a Kuklux. "I regard this legislation as unwise and foolish, and believe the "laws we have on the statute book are sufficient. Offenders "are being brought to justice throughout the state, and the "good men everywhere are upholding the arms of justice. "Let us not inaugurate the state of things existing in Ten-"nessee, and array neighbor against neighbor. If legislation "at all is deemed necessary, adopt the substitute of the com-"mittee."

I have not read these extracts to show the individual sentiments of the speakers, but simply to set forth that the purpose of passing the bill, was to put down these secret associations. I shall now refer to the debates on the Shoffner Act. I read from an editorial of the Sentinel of January 8th, 1870.

"But it is designed by this bill to go beyond the ordinary "course—it not only intends to arrest and punish the perpe-"trators of crime, but to go further, and without affidavit to "arrest men on mere suspicion, and take them off to some dis-"tant point for trial. There lies the danger. No man is safe "from the suspicion of some ill-disposed neighbor, and under "this law every man's liberty and life is at the mercy of any "man black or white who may happen to have a grudge against "him." I also read an editorial of same paper January 6th, 1870:

"It is further urged that there is a secret organization banded "for the commission of crime and outrage on unoffending "citizens. This we believe to be false. That persons have "joined to punish notorious offenders, and clear the neigh-"borhood of ravishers, barn burners and rogues in particular "neighborhoods is apparently true, but all the alleged acts of "this sort are punishable by existing law, and the facts even "exaggerated as they have been by those who wish to make "party capital out of them does not justify the extraordinary "measures proposed—the suspension of the *habeas corpus*, "the declaration of martial law, and the removal of persons

"charged with offences to distant points for trial, and all this "power to be placed in the hands of one man."

I read from the debate on the Shoffner bill as published in the *Sentinel* of January 15, 1870:

"Mr. Seymour said that in portions of North Carolina the "laws were not and could not be enforced. Facts that sustained "this declaration had been accumulating ever since the spring "of 1866, and were well known by him personally, and also by "a large number of the members on the floor of the house. It "was a well recognized principle in republican governments "that laws contrary to the wishes of a majority of the people "could not be enforced. An averse public sentiment would "render futile their execution. While this was true, it was "also a fact that a few men, by a dexterous and judicious use "of terrorism and by violenee and boldness, in their particular "sections, could override and prevent the execution of the law. "It was well known that witnesses summoned to testify about "outrages and thefts in Jones county said that they dare not "know anything about such outrages, and some young men be-"before they were called to the witness stand came and begged "off from testifying because they alleged their lives were not safe. "Also in Jones county a man by the name of Butts took a "horse from a colored man while in the presence of the sheriff "and when the sheriff was interrogated why he did not prevent "the taking of the horse, replied that he could not do so for "Butts was armed and he was not. For this robbery, the "grand jury only returned a bill of "forcible trespass" instead "of highway robbery. Threats of murder had also been made "against certain men if they did not leave their homes. There "was no security against this state of affairs except by the "passage of a law that would meet the emergency and remedy "the evil."

I also read from the debate on the same bill published in the *Standard*, January 18th, 1870, being the remarks of Mr. Harris:

"The gentleman from Caldwell, with that chief corner-stone "of the arguments of democratic orators on the stump, namely:

"that of negro inferiority and the attempt of the republican "party to place them over the whites in North Carolina.

"Every paper that is published by them, on the one hand, "has these arguments as their corner stone, and they refuse to "publish anything that would do him justice, on the other. "Yes, these party papers have their columns filled with articles "seeking to palliate and defend this band of midnight assassins "who are whipping the poor colored man and the poor colored "woman; who are hanging them by the neck until they are "dead, without giving them the trial by jury; and these men "come here and say because we wish to pass a law to protect "these innocent, inoffensive citizens, and to arrest these blood-"thirsty and cowardly assassins, we say they are endeavoring "to array the whites against the blacks. I don't believe you can "find a single colored man in this state that is an enemy of the "white man because he is white, or an intelligent white man, "a manly white man, a decent and an upright white man that "hates the black man, because he is black; not one. I do not "believe there is any such feeling in this state any further than "is sustained by political considerations. Is that the feeling of "the democratic party on this floor? I will not say.

I also read from the debate published in the *Standard* of January 19, 1870.

"Mr. Ingram called attention of members to the fact that no denial of the commission of outrages, or a single instance of their commission was made by the gentleman. He denied too that there was any similarity between the Union League and the Kuklux Klan. The object of the League was for the protection of union men—scattered at intervals—to encourage and advise colored men to demean themselves properly as good citizens, to fill their contracts, to acquire property, &c., and to perpetuate the U. S. government. Could as much be said as to the objects of the Kuklux? He contended that many evidences of prosperity in our state were attributable to the Union League. He did not charge the conservatives were responsible for the outrages of the Kuklux, but he did

say that they have been too silent in reference to these outrages."

I also read from the debate published in the *Standard* of January 22, 1870:

"Mr. Scott. I would ask the senator from Alamance if he "thought the county of Alamance was in an insurrectionary "state.

"Mr. Jones, of Columbus. I would like to hear from the "senator from Alamance, if Judge Tourgee had ever stated "officially or unofficially that the civil law in the county of "Alamance could not be executed.

"Mr. Shoffner. I am unable to state the amount of pleasure "that question has afforded me. I do not know what he has "said officially, but I know what he has said in a private con-"versation, 'that he has seen attempts made so often to bring "these offenders to justice that he thought it perfectly useless "for the solicitor to draw another bill of indictment against "any man who attempted to commit a crime in that county. "That the organization was so complete and had united with "such determination, and the perpetrators of these crimes had "so little regard for truth and so devoid of every feeling of "humanity that it was perfectly unnecessaay and useless to "attempt to bring one of them justice.'

"In answer to the senator from Onslow (Mr. Scott) I will "say that I do not know that reason exists sufficient to declare "the county of Alamance in a state of insurrection, but such "is the state of affairs, if I can believe some of the most intel-"ligent citizens and property holders of that county, that such "is the condition of things threatened.

"Mr. Scott, I wish merely to ask if the county of Alamance "is in an insurrectionary state?

"Mr. Shoffner, I cannot say, but I know, sir, if I am to be-"lieve anything in the world, that there has been numerous "and grave crimes committed; that there has been very few "persons arrested, and that attempts have been made to bring "the perpetrators of these deeds to justice without effect; that

"these persons have committed these crimes in disguise; so "that no man was able to identify them, and whenever there "was a disposition to bring these men to justice there was "always some person ready to prove an *alibi*. That the attor-"neys and magistrates of the county of Alamance had been "notified by letter that if they attempted to ferret out these "outrages and bring these criminals to justice that they should "suffer personally themselves. I state it now, sir, and state it "upon the honor of my declaration as a senator, that such has "been the case in my county. I ask the senator from Orange "if he can deny it."

I now submit with great confidence, that the extracts I have read, and I might have read much more to the same effect, prove beyond any doubt whatever, that the "Shoffner act" was passed, with the express purpose and intent of remedying the state of affairs, which, as we allege in the answer and expect to sustain, existed in the counties of Alamance and Caswell. If the senate, sitting as a court of impeachment, should be satisfied that the evidence we shall adduce, sustains this view of the case for the respondent, I feel persuaded, that no outside pressure can swerve them from their duty. He who can rise superior to prejudice, disabuse his mind of preconceived opinions, and give an impartial judgment regardless of consequences, is a man whom we may almost bow down and worship.

With all due deference to my learned friends on the other side, I insist upon the point that, under the "Shoffner act," the governor was the sole judge of the fact, and the legality and good faith of his proclamation, declaring the counties of Alamance and Caswell in a state of insurrection, cannot be here, or elsewhere, questioned. The act of congress of 1795, authorizing the President of the United States to call out the militia in certain exigencies, and which has been referred to in previous debates during this trial, is not so strong in its terms as the act under which we justify. The judicial construction of the act of congress in Martin *vs.* Mott, 12 Wheaton 19, leaves, in my mind, no question of the prin-

ciple for which I contend. Story, giving the opinion of the court, says, p. 31: "Whenever a statute gives a discretionary power to any person, to be exercised by him upon his own opinion of certain facts, it is a sound rule of construction, that the statute constitutes him the sole and exclusive judge of the existence of those facts." If, then, he is constituted the "*sole* and *exclusive* judge" no man, nor body of men, can bring him to trial for the exercise of that judgment, without an usurpation of power. It has been said, that the court, in that very case, referred to impeachment as a remedy against the president for an abuse of power under the act, but such a construction would be imputing to the court, ignorance of the force and effect of its own words. In the very paragraph from which I have read, the court say, "It is no answer that such a power may be abused, for there is no power which is not susceptible of abuse." The court points to the remedy, "as to be found in the constitution itself," adding, "In a free government, the danger must be remote, since, in addition to the high qualities which the executive must be presumed to possess, of public virtue and honest devotion to the public interests, the frequency of elections, and the watchfulness of the representatives of the nation, carry with them all the checks which can be useful to guard against usurpation or wanton tyranny." There is nothing in the opinion which can sustain the argument that the words last quoted, refer to "impeachment" as a remedy—if the court had so meant, it could not have failed to have made use of a term familiar to the constitution and of strict legal import.

The argument of the distinguished gentleman, Mr. Bragg, that my construction cannot be correct, because thereby the governor might exercise despotic power, is met as I have said by the case itself which says that the objection, abuse of power, is "no answer."

The court in Luther vs. Borden, 7, Howard 34, refers to and expressly approves of Martin vs. Mott, and declares the deci-

sion of the president under the act as binding on the courts of the United States. I read from page 44 of the opinion:

"It is said that this power in the president is dangerous to "liberty, and may be abused. All power may be abused if "placed in unworthy hands. But it would be difficult, we "think, to point out any other hands in which this power would "be more safe, and at the same time equally effectual. When "citizens of the same state are in arms against each other, and "the constituted authorities unable to execute the laws, the "interposition of the United States must be prompt or it is of "little value. The ordinary course of proceedings in courts of "justice must be utterly unfit for the crisis. And the elevated "office of the president, chosen as he is by the people of the "United States, and the high responsibility he could not fail "to feel when acting in a case of so much moment, appear to "furnish as strong safeguards against a wilful abuse of power "as human prudence and foresight could well provide. At all "events it is conferred upon him by the constitution and laws "of the United States, and must, therefore, be respected and "enforced in its judicial tribunals."

The case of *exparte* Moore and others, 64 North Carolina Reports, page 802, before the chief justice of the state is to the same effect. The decision is of high authority: the decisions at *nisi prius* in England are quoted with respect both in that country and in this, and while I do not ask for the opinion the same consideration to which an opinion of the supreme court of the state would be entitled, yet it is of equally binding obligation on the counsel opposite, as they quote, and rely on it in the articles. In that case Mr. Badger of counsel submitted first, the proposition of law which I am discussing, and the Chief Justice says:

"I accede to the first proposition; full faith and credit are "due to the action of the governor in this matter, because he "is the competent authority, acting in pursuance of the con-"stitution and the laws. The power from its nature, must "be exercised by the executive, as in case of invasion or open

"insurrection. The extent of the power is alone the subject "of judicial determination."

The Chief Justice, having respect to decisions of binding obligation, could not have held otherwise. I am well persuaded that no proposition of law can be sustained by higher authority, and I am content to leave it with the judgment of the court.

Mr. CONIGLAND. I dislike, exceedingly, to ask any unusual indulgence, but I feel somewhat exhausted, and a short recess will much relieve me.

On motion of Senator Speed the court took a recess until 4 o'clock, p. m.

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## AFTERNOON SESSION.

The COURT re-assembled at 4 o'clock.

Hon. R. M. PEARSON, chief justice of the supreme court, in the chair.

The CLERK proceeded to call the roll of senators when the following gentlemen were found to be present:

Messrs. Adams, Albright, Battle, Beasley, Bellamy, Brown, Cowles, Crowell, Dargan, Eppes, Flemming, Flythe, Gilmer, Graham, of Alamance, Graham, of Orange, Hawkins, Hyman, King, Lehman, Linney, Love, Mauney, McClammy, Merrimon, Moore, Murphy, Olds, Robbins, of Rowan, Robbins, of Davidson, Skinner, Troy, Waddell, Whiteside and Worth—34.

Mr. CONIGLAND. Mr. Chief Justice and Senators, the case exparte Milligan went up from a divided court in Indiana. and the opinion in the supreme court of the United States is that of five judges against four. Among the minority we find the chief justice of that court, whose great learning and extensive legal attainments give to his opinions the weight of authority. But the case does not make against the respondent and cannot be so construed. The point was, whether, in a time

of peace the courts being open and in the unobstructed discharge of their duties, a citizen of the United States, not in the army or navy, was subject to be tried by a court martial, and this is decided in the negative—all else in the case, it appears to me, is extra judicial. Let it not be forgotten that the respondent in this case did not convene a court martial, and, of course, that no one of the arrested parties was brought to trial before such a court. If it was his purpose to bring the parties before a military court, which we deny, that purpose was never accomplished, and he certainly cannot be tried and condemned for what he may have intended to do, but did not do.

Alamance and Caswell counties had been rightfully, as we allege, declared in a state of insurrection, and the respondent arrested and detained persons therein whom he regarded as suspected persons, and I insist that *ex parte* Milligan so far from declaring such a course to be illegal sustains it. I read from page 125 of the report:

"It is essential to the safety of every government that, in a "great crisis, like the one we have just passed through, there "should be a power somewhere of suspending the writ of "*habeas corpus*. In every war, there are men of previously "good character, wicked enough to counsel their fellow-citizens "to resist the measures deemed necessary by a good govern-"ment to sustain its just authority and overthrow its enemies; "and their influence may lead to dangerous combinations. In "the emergency of the times, an immediate public investiga-'tion according to law may not be possible; and yet, the peril "to the country may be too iminent to suffer such persons to go "at large. Unquestionably, there is then an exigency which "demands that the government, if it should see fit in the ex-"ercise of a proper discretion to make arrests, should not be "required to produce the persons arrested in answer to a writ "of *habeas corpus*. The constitution goes no further. It does "not say after a writ of *habeas corpus* is denied a citizen, that "he shall be tried otherwise than by the course of the common

"law; if it had intended this result, it was easy by the use of "direct words to have accomplished it."

Mr. Graham seems to assume as proved what has not appeared in evidence, and cannot appear in evidence, that the parties arrested were subjected to trial by a military court, and the greater part of the argument to which I am referring, seems to be based on such an assumption. The case in question certainly sustains the right of the president of the United States in troublous times, to arrest without warrant, and to detain, notwithstanding the writ of *habeas corpus*, and this covers our case. Luther *vs.* Borden is to the same effect. I read from the opinion, 7 Howard, 45 and 46. "It was a state of war, and the established government resorted to the rights "and usages of war to maintain itself, and to overcome the "unlawful opposition. And in that state of things, the officers "engaged in its military service might lawfully arrest any one, "who, from the information before them, they had reasonable "grounds to believe was engaged in the insurrection; and "might order a house to be forcibly entered and searched, "when there were reasonable grounds for supposing he might "be there concealed. Without the power to do this, martial "law and the military array of the government would be mere "parade, and rather encourage attack than repel it."

I do not intend fully to discuss the bearing of the case *ex parte* Moore before the chief justice of the state on this point; but I will content myself with an extract from the opinion which I must be understood as earnestly insisting leaves obedience to the exigency of the writ discretionary with the respondent.

"The judiciary has power to declare the action of the execu-"tive, as well as the acts of the general assembly, when in "violation of the constitution void and of no effect. Having "conceded good faith and credit to the action of his excellency, "within the scope of the power conferred on him, I feel "assured he will in like manner give due observance to the law "as announced by the judiciary. Indeed he cannot refuse to "do so, without taking upon himself the responsibility of acting

"on the extreme principle, 'the safety of the state is the "supreme law.' I will venture to hope, as evil as the times "may be, our country has not yet reached the point when a "resort to extreme measures has become a public necessity."

This opinion certainly, in my view, admits of the construction that the governor should obey the exigency of the writ *except* when the safety of the state may not, in his judgment, permit him to do so. So the respondent understood it, as the correspondence which took place at the time between the parties abundantly proves. I confidently submit, that if I am correct in my construction of this opinion, or if the point was even left in *doubt* by the language of the Chief Justice, it is sufficient for the justification of the respondent.

The learned gentleman, Mr. Graham, insists that the act of 1870 furnishes "no justification or excuse to the governor," that "he had authority to proclaim the county to be in a state of insurrection," that the people of Alamance and Caswell were not thereby "to be treated as guilty insurgents," and further, Mr. Graham describes the proclamation authorized by the act as in the nature of a "severe reproof" and likens the effect thereof to the "waving to and fro" of the mace among the members of parliament, when they prove disorderly—which, I admit, is very often indeed, for the "House of Commons" in England is a very disorderly body; but he adds, "the "oldest of parliamentarians have never been able to explain what is to be done if the body does not cease its confusion," upon waving of the mace. So if the good order of society was not restored upon the "severe reproof" administered by the governor in the shape of the proclamation, he was in a dilemma and required to remain with his hands folded. This reminds me of an illustration in one of Webster's speeches—from "mi-dsummer's night dream," Bottom's prologue to be spoken by Snug the joiner, in playing the part of the lion, to guard against alarming the ladies, Snug "must name his name, and half his face must be seen through the lions neck"—he must "tell them plainly, he is Snug the joiner." The governor, then, had power and authority, under

the act of 1870, to issue his "severe reproof," but lest the good people of Caswell and Alamance, might be too much frightened his herald should have been instructed to make proclamation in this wise: "O yes! O yes! O yes! All ye good people of Cas-"well and Alamance, take notice that you are hereby proclaimed "in a state of insurrection, but my good friends, my dear friends "I would request you, or I would entreat you, not to fear, not "to tremble, even a hair of your head shall not be touched—"God save the good people of Caswell and Alamance."

The fact that the cheif justice of the state in *exparte* Kerr and others, vol. 64 N. C. reports, page 816, did expressly hold and declare, that the effect of the proclamation of insurrection, was to make all the people of the counties in question, even to a judge of the supreme court who might remain among them during the prevalence of the insurrection, *insurgents*, may not seriously interfere with the learned gentleman's construction of the act—nor yet the additional fact, that the act authorizes the governor "to call into active service the militia of the state to "such an extent as may become necessary to suppress such insurrection." I beg to call the attention of the court on this point to Mr. Alexander's Cotton case, 2 Wallace, 404, which fully sustains *exparte* Kerr.

Throughout the whole of the eminent gentleman's [Mr. Graham's] remarks, it seems to be assumed that the respondent had actually brought the arrested parties to trial before a military court, and had been actually proved guilty of the maltreatment to which some of them were subjected, which no man can condemn more than I do, and which he took steps to punish, as we have proposed to prove, and can prove if allowed to do so. As I am not speaking to evidence, but rather upon general principles of law applicable to the case, I will simply request senators to mark the distinction between what is proved, and what is assumed. The argument on the seventh and eighth charges, I must leave to be developed by my associates, nor will I dwell on the question of intention, which has a most important bearing on the issue, further than to cite some au-

thorities to the effect, that, in any view of the case, a guilty intention must be charged and proved. I will refer to some of the opinions delivered by members of the court of impeachment which sat in the trial of Andrew Johnson I read from the opinion of Senator Fowler, vol. 3, page 196, of proceedings in that case.

"The present cause involves neither treason nor bribery but "high crimes and high misdemeanors. 'A crime is an offense "'against a public law.' In its limited sense it is confined to "felony. The term misdemeanor includes all crimes inferior to "felony. Their elements are the same. The difference consists in "the magnitude of the offence, and this is determined by the con-"sequences of the act to society and the malignity of the intention "of the actor. The simple act is not in law necessarily criminal; "it must be accompanied with a criminal purpose *Actus non "facit reum nisi mens sit rea.* Lord Kenyon says: 'It is a "'principal of natural justice, and of our law that the intent "'and the act must both concur to constitute the crime.' The "intent is not punishable—indeed not the subject of human "law. It must accompany in some manner an act. *Cogita-"tionis pœnam nemo patitur.* 'The intent must also be "'proved as alleged.'"

I read also from opinion of Senator Doolittle, page 246, vol. 3, of said proceedings:

"The senator from Ohio said however conscientiously the "president may have believed he had a right to appoint Mr. "Thomas *ad interim*, if two-thirds of the senate differ with "him in opinion in the construction of the law he must be "found guilty of a high crime or high misdemeanor for which "he should be removed from his high office. From this doc-"trine I dissent. The president as the chief executive is com-"pelled officially to construe the laws of congress. He must "execute them, and to do that he must know their meaning. "If he mistake the meaning of a doubtful statute upon which "the ablest senators and lawyers disagree, to say he can be "found guilty of a high crime or misdemeanor because he

"mistakes its true meaning while honestly seeking to find it, "shocks the moral sense of the world. It is a monstrous pro- "position. Intention, criminal intention, is of the very essence "of crime. A public officer may commit a trespass and become "liable to respond in damages in a civil suit when mistaking "the law he violates the right of person or property of another. "But to say that a high public officer, with good motives and "with an honest intent to obey, though he mistakes the meaning "of a statute, can be found guilty of a high crime and misde- "meanor which shall subject him to the heaviest punishment "which can fall upon a public man in high office, is to assert a "doctrine never before heard in any court of justice."

The respondent did not proceed under the act of 1870, until he had exhausted all other means of preserving the public peace, and then only with the utmost reluctance. The series of proclamations issued by him sufficiently attest this, and the state of affairs which, as we expect to prove, existed in the counties of Alamance and Caswell, are sufficient to rebut all evidence of guilty intent in the acts with which he stands charged. I shall refer to but one example, which has appeared in evidence, the murder of Stephens. What manner of man he was I know not, but he was a man made in the image of God and endowed with an immortal soul. In the light of day, in a public court-house, which I am informed was visible from many portions of the town wherein it is situated, during the progress of a large public meeting, he was murdered. Some may profess to believe that he did not meet his fate at the time and place stated, and some may, in fact, believe so; but no man of impartial judgment can doubt, nor can the impression be removed from the public mind, that several were concerned in the deed, and that the unfortunate man was doomed to die by a sentence of some secret organization. I cannot conceive anything more horrible than the meeting, under cover of the night of a band, of men, professing to be christians and pronouncing sentence upon their victim, at the very moment when, perhaps, in fancied security, he is enjoying the society of wife and children, from whose companionship

and protection he is so soon to be withdrawn forever. Alas! what a state of the public conscience it must argue that from that day to this the murderers have remained secure, and the majesty of the law is still to be vindicated. Much may be pardoned in any attempt of an executive officer to remedy such a sad condition of affairs, and the honor of the state, especially of the county of Caswell, requires every good man, according to his means and opportunity, to aid in discovering the perpetrators of that foul deed.

The distinguished gentleman, Mr. Graham, has said that the murder of Stephens no more justified the proclamation of the respondent than would the murder of Nathan have justified a proclamation of like character from Governor Hoffman, of New York. That would be indeed true, if the murder of Stephens, as of Nathan, had been the result of individual depravity. Nathan is universally believed to have met his fate from the hand of some assassin moved by the hope of gain, whilst Stephens is as universally believed to have been hurried to his fate, in obedience to the command of some secret oath-bound association. When we reflect that such associations so extensively existed in the counties of Caswell and Alamance at the time of the death of Stephens—that murders equally atrocious, and various outrages, can be traced to the same bodies of men, upon person who like Stephens, were politically obnoxious to them, and that he had nothing to tempt cupidity, the conclusion is irresistible, that his murder was the result of the same lawless combinations, and I am at a loss to conceive by what process of reasoning the learned gentleman can draw a parallel between the cases. The proclamation was not based on the murder of Stephens only, but upon a series of outrages of which that murder was one, perpetrated by secret and unlawful combinations. Under similar circumstances Gov. Hoffman might have used every exertion to secure the safety of the citizens, and, if so authorized by an act of the legislature of his own state, as the respondent was, might have resorted to the same means, other efforts having failed. Nay, lawless as that great city is, it is very probable, that, had the

murder of Nathan been regarded as the work of a secret association, many persons suspected of being connected therewith, might have been hung to the lamp posts, a state of things which would be equally as much to be deplored. I rejoice that it is my privilege here to denounce outrage and murder, under whatsoever pretext or pretence committed.

Mr. Chief Justice and Senators, I have spoken warmly of secret political societies because I feel warmly. In condemning them I sacrifice no principle. Since I came to the use of reason until this day, I have known them only as the corrupters of youth, the subverters of law, and the destruction of religion and morality. Self invested with authority to punish as great as that of the most powerful autocrat, and with a rigor which the worst despot would scarcely dare to exercise, binding their members by oath to the obedience of orders however atrocious, they issue their mandates and effect their ends by the blood of their victims. Under pretence of redressing public wrong, they become the instruments of private animosity and revenge—professing to repress crime, they seduce the unwary, frequently men of position and influence, but they destroy all manliness of character, and men individually generous and brave, once united to one of these bodies soon become imbued with their spirit, and coolly assist in the perpetration of outrages which, before their affiliation therewith they looked upon with horror. They sit in secret—convict without a hearing, and strike without warning. They have proved the curse and the scourge of every country wherein they have been permanently established, and they are condemned alike by human and divine laws, because they act in systematic opposition to both. We trace to them, the atrocities of the French revolution, when Marat and Robespierre were their high priests, and their libations to liberty the blood of the virtuous and the good. If we turn to that country whose wrongs have inspired the poet and the orator we find them the stumbling block of her patriots, and the opprobrium of their race. O'Connell, the greatest tribune of the people

the world ever saw, proclaimed as his shibboleth "He who commits a crime gives strength to the enemy," but those misguided men, under various names and designations, in pretence of redressing oppressive laws, provoked the penal legislation to which I have referred—outrage brought punishment—punishment begat revenge, until we can trace the history of some sections of that unfortunate country in ruined homes, desolate hearths, blood on the door sills and gibbets at every cross roads. What are they doing for North Carolina?—precisely what they did for Ireland—giving pretexts for that penal legislation which, I fear, must involve us all in one common bondage.

The honorable manager, Mr. Sparrow, has referred to North Carolina. He has told us that her people are noted for their obedience to law, and for their love of liberty; but he can pass no eulogy upon them that can rise to the height of my estimate of their character. Now when my days have turned on their decline, I find myself bound to them by all the ties that can cluster around the heart of man—by all my feelings affections, hopes and aspirations, I love North Carolina with the fidelity of a son, and cherish her honor as I do the honor of the mother who bore me. Until comparatively recent times, without any large sea port and consequently without foreign commerce—uncontaminated by the vices engendered in great cities and extensive manufacturing districts, her people pursued the even tenor of their way in a state of almost Arcadian simplicity and innocence, so that no other region on the face of the earth, of the same extent, until the breaking out of the late war, was so free from outrage and crime. To it we might have pointed as realizing Moore's beautiful lyric wherein he represents a fair lady, in the olden time, adorned in rich and rare gems, traversing alone and in safety, his own native Isle, protected by the honor and virtue of its sons—for throughout the whole state, whether amid the secluded valleys of her mountains, or by the lonely boders of her swamps, in the night time

no more than in the day time, did the safety of man or
require either bolts or bars.

The nurse of every domestic virtue no higher eulogy
passed on her daughters, than that they inspired and are
of that couplet of one of her own cherished sons, wh
expressiveness with brevity, is not to be surpassed
English language. A people marked by so many
so hospitable, that the stranger and the wayfarer never
for food or shelter in vain—so unselfish that natives
climes have filled their highest executive and judicial
could not exist without public evidence of their private
We find them in every department, peers among the f
North Carolina gave to the nation a Macon, whose i
wisdom and far seeing statesmanship, have become pr
The learning of her Haywood, Ruffin and his cotempo
the bench, are known and respected throughout the
and the eloquence of her Yanceys, her Murphys, her
sons, her Stanleys, her Gastons and her Badgers, mig
graced Westminster hall—although unreported and lo
world, it aided in forming the character of her people
live among their posterity. In the field, as in the for
has shone conspicuous—her Andersons, her Dan
Branches and her Penders are among "the few the i
names that were not born to die"—but greater still,
of unnamed heroes who

> "While the moss of the valley grew red with their blood
> "Stirred not, but conquered and died."

sanctified their cause by their lives, and whose bones
dering in the unknown graves of a hundred battle fiel
has the sacrifice been in vain. Surely so long as virtu
place in the world, will the memory of those days o
and strnggle animate our posterity to great and noble

By desolate firesides, amid the ruin of happy homes
plaining like Niobe, "all tears in her speechless woe
Carolina addressed herself to the arts of peace, with a

in adversity, no less to be admired than her bravery in war and not only calmed the asperities, but evoked the sympathy and commanded the respect of the northern people. Who among her sons did more in binding up her wounds, in building up her waste places, in reanimating her hopes, and in restoring her lost prosperity, than this man, William W. Holden, now represented as the incarnation of wickedness by the learned gentlemen opposite. Appointed provisional governor by Andrew Johnson, when they were weak he was strong—armed with almost despotic power, no man in North Carolina felt the weight of his hand. He punished no enemies, and, entrusted with large sums of the public money, he did not misappropriate one dollar to the reward of his friends, or to his own emolument. He gave his whole energies to the welfare of his state; and of all the provisional governors he was the kindest, the most lenient, the ablest and the best. Can it be possible that he who, in the plenitude of his power injured no man, oppressed no man, and gratified no resentment, should, at this late day, have violated the liberty of his fellow-citizens, and the constitution and laws he had sworn to support? No, he was actuated only by a sincere desire and an honest purpose to make use of the means provided by the legislative body for the good order of society and the suppression of outrage and wrong. And if we now escape congressional usurpation, it will be due to the tranquillity his measures have produced, and to a wise course of action on the part of this legislature.

What man, Mr. Chief Justice and senators, was ever assailed with more ferocity than Andrew Johnson? During the pendency of his trial the most disreputable means were resorted to in order to secure his conviction. Those who put trust in the calumny and vituperation poured upon him must have regarded him as unredeemed by a single virtue, yet he was innocent of all the crimes laid to his charge. This of itself should satisfy us that public clamor and cries for vengeance are not always evidence of guilt.

We cannot, indeed, fail to be struck by the remarkable coin

cidences in the lives of Andrew Johnson and William Holden. Both natives of North Carolina and born in hu circumstances, they have elevated themselves to high po by the force and energy of their character—one, indeed, t highest elective position in the world, the other to the hi elective position in his native state; one the first preside the United States subjected to impeachment, his only the interposition of his authority to save the bleeding and trated south from utter destruction; the other the first nor of a state ever brought to trial on an impeachmen only crime because he made use of the very means whi legislature of his state had provided to suppress an assoc which held in thrall the bodies and the souls of men perpetrated outrages that shock the conscience and sick heart. Both charged by political foes, with political of but as if types of the state from which they sprung, the sonal integrity unimpeached and unimpeachable. Willi Holden will transmit to his children an untainted name, will be their privilege and their consolation to inscribe tomb, as illustrative of his character, "An honest man noblest work of God."

It is sad to contemplate the intemperance of politic and the licentiousness of the partisan press—all goo deprecate both, but they exercise an influence before wh bravest and the best stand appalled. William W. Ho now the victim of their malignity and hatred, but he v superior to their assaults—his motives and his public chara be vindicated, and that genius which is his—heaven-bor carry his name, unsullied, among future generations of people. Nor will that genius die with him—so long waves break on our Atlantic coast, the terrors of the bl stormy Hatteras can find no more sublime expression t read in the emanation of one of his children. Senators a man, and such children, to be driven into exile from you? Mistaken he may have been—errors he ma committed—but in him who never injured a foe v

had the power—in him whose hand has ever been "open as the day to melting charity"—they must have been errors of the head and not of the heart. Are the hopes of such a man to be blasted—are the aspirations of his genius to be crushed—is he to be banished from the state of his birth and of his love—whose history he has adorned—that public clamor may be stilled and political vengeance satiated? I am addressing the senate of North Carolina—numbering among its members some who have graced judicial station—lawyers of distinguished ability, and others of high civic talents. I see before me men who bear on their persons the scars of a dread conflict, whose hearts I believe to be as generous as their souls are brave—who are now called to the exercise of a higher degree of courage than ever enabled them to face, unblenched, the cannon's mouth, or scale the deadly rampart. To them—to each and every one of you, senators, I appeal, in the name and fair fame of this dear old state, to rise above the atmosphere of prejudice—to break from the shackles of party—to stand forth the exponents of judicial probity; and may God, whose aid you have invoked, bring your minds to an impartial judgment?

ERRATA—Page 1042 line 7 from bottom after "party," read "on the trial of Andrew Johnson."

## TWENTY-SECOND DAY.

SENATE CHAMBER, February 24th, 187:

The COURT met at eleven o'clock, pursuant to adjournm Hon. Richmond M. Pearson, Chief Justice of the Supr Court, in the chair.

The proceedings opened by proclamation made in due f by the doorkeeper.

The CLERK called the roll of senators when the follo gentlemen were found to be present:

Messrs. Adams, Albright, Allen, Barnett, Battle, Bea Bellamy, Brogden, Brown, Cook, Cowles, Currie, Da Edwards, Eppes, Flemming, Flythe, Gilmer, Graham Alamance, Graham, of Orange, Hawkins, Jones, King, Lat Lehman, Linney, Love, Mauney, McClammy, Merrimon, M Murphy, Norment, Olds, Price, Robbins, of Davidson, Rob ot Rowan, Skinner, Speed, Troy, Waddell, Warren, Whit and Worth—44.

Senator ROBBINS, of Davidson, moved that the readi the journal of the proceedings of yesterday be dispensed

JOHN B. NEATHERY, *a witness on behalf of the re dent, being recalled, testified as follows:*

By Mr. McCORKLE.

Q. I believe you have already been sworn as a witn this case? A. Yes, sir.

Q. Will you state the length of time that you have be private secretary of Gov. Holden? A. My commissi private secretary dates from August 24th, 1870.

Q. Have you his official letter book? I have.

Q. Commencing from what time—the time of his i ration? A. From the time of his inauguration.

Q. Turn to the protest of Governor Worth objecting t ernor Holden entering upon the discharge of his official

Mr. MERRIMON. Mr. Chief Justice, we object to the admission of the protest.

Mr. McCORKLE. We would like to hear the grounds of your objection.

Mr. MERRIMON. Mr. Chief Justice, we object to it on the ground that it is wholly immaterial and does not in any way pertain to this case, and it is not germain to any issue before the court. It will be remembered by the court that the answer of the defendant begins by saying that the letter addressed to the accused by the late Governor Worth was the foundation of the organization which they allege is insurrectionary in its character and purpose. They have offered no evidence tending to show that such fact is true. They commence at the conclusion instead of at the beginning of their case, if this evidence is to be introduced; and more than that, sir, no longer ago than yesterday the honorable gentleman who opened the case in behalf of the respondent [Mr. Conigland] expressly disclaimed any purpose whatsoever to make an imputation against the patriotism of Governor Worth or to connect him in the slightest degree with this kuklux organization about which they complain. We insist that this paper has nothing to do with this case and that in no point of view does it throw any light upon it, and therefore it ought not to be admitted.

Mr. McCORKLE. Mr. Chief Justice and Senators, we commence our proof with this document for the simple reason that it is proper in the chronological order of our proof and because it shows the animus by which the respondent was afterwards controlled. The answer of the respondent sets forth that at the time of his inauguration as governor, he demanded of Governor Worth to be installed into office as by law he was entitled to be. We have a right to show that as a part of the history of the times. I do not see in that point of view, how the managers can object to it. It is one of the documents found in the letter book of Governor Holden and is a part of the history of the times and is set forth with allegations connected therewith in his answer. And if this court shall be satisfied that that letter

gave rise to the opposition to the reconstruction measures all over the state of North Carolina, it will be competent evidence in that point of view. And further, we say that it must be competent to show the motives that afterwards influenced the governor in the action which he took.

Mr. MERRIMON. Mr. Chief Justice, I beg leave to say this in addition to what I stated a moment ago. My friend admits that one of their objects in introducing this paper is by way of sustaining the first allegation contained in the respondent's answer. Sir, it must be manifest, to every lawyer at least, that the managers might have moved to strike out fully one half of their answer as immaterial and having no relation to the issues involved in this case. They did not see proper to do so and thus consume the time of the senate by a protracted debate about it. But when the matter is immaterial, I see no reason why this court should sit here and allow the respondent to introduce a mass of irrelevent evidence refering to issues entirely outside of this proceeding.

Sir, what is the issue here? It is alleged on the part of the managers that there was no insurrection in the counties of Alamance and Caswell. The accused avers that there was such insurrection in those two counties; and all evidence is pertinent which tends to show that there was, and none other is competent. The Senate has already ruled that any evidence touching this alleged insurrectionary organization outside of these conties is inadmissible and shall not be heard. I pray my brethren uo the other side to tell me in what point of view this document, which they propose to offer as evidence is material and tends to show there was insurrection in those two counties.

Mr. SMITH. Mr. Chief Justice, the enquiry touching the guilt of the respondent relates as I think entirely to his *bona fides*, and the necessity for his action in attempting to suppress crime in the counties of Alamance and Caswell; and this court will acquit him, if upon the whole evidence, it should come to the conclusion that in good faith he exercised his judgment on the facts then before him, in declaring those counties to be

in a state of insurrection, and used such instrumentalities as he was authorized to use by the law for that purpose. Most of the evidence which has been admitted on this trial has been offered to show a different purpose—a sinister and unauthorized purpose—on his part. We offer this protest which was written to the incoming governor by the retiring gevernor, as one of the facts which preceded and bore upon the act which is now under consideration before the senate. In other words, we began historically at the starting point—the first manifestation of opposition to the new government, with a view of showing, not that Gov. Worth ever designed or sanctioned such a use of his language as was afterwards made, (for as was fully stated yesterday by my associate [Mr. Conigland,] we know Governor Worth to have been a man of such character as would not admit of imputing to him any unpatriotic purpose,) but, for the purpose of showing that it had its influence and bearing in bringing about the formation of these secret societies or organizations whose purpose was to subvert the existing laws, and to take the authority into their own hands. Sir, is it not material for this court to know what the respondent heard with a view of arriving at a conclusion as to the motives which led him to take the final action for which he is now arraigned before the bar of this court? Would it be just to him and just to the country for this court to deprive him of the opportunity of having before them the information which was before his mind, and which his counsel say had this influence in leading it to the conclusion to which it arrived, and which with other facts to be proven here caused the enactment of the Shoffner law and to its execution by the governor and induced him to take a course for which he is now being tried by this tribunal? I think, Mr. Chief Justice, the court will hesitate to exclude the evidence.

Mr. MERRIMON. Mr. Chief Justice, let us see what this admission of the proof may lead to. If this paper is introduced in evidence for the purpose of showing the lights and shades that existed in the mind of the governor from the time he was inaugurated down to the period when he instituted the pro-

ceedings for which he has been impeached, upon the very same principle and for the very same reason, the accused may introduce every outrage that was perpetrated in the state from Cherokee to Currituck for the purpose of showing the light that shone upon his mind and induced him to take the action he did in Alamance and Caswell; and it would virtually reverse the solemn decision the court made, that it would hear of no insurrectionary movements or acts which the respondent complains of, at the hands of these secret organizations, outside of the counties of Alamance and Caswell. If, sir, the precedent is now set, the court will find offered as a part of the defence statements in reference to outrages in the counties of Jones and Onslow, and in every part of the state, not with a view of showing not that there was an outrage in the county of Alamance or in the county of Caswell, but to show, in the language of my friend, the lights under which the respondent acted, and the motives which prompted him to this extraordinary course. I insist it is so remote that in no legal point of view is it competent for the purpose of determining any issue before this senate.

Mr. BADGER. I will state to the counsel that we intend to offer in evidence instances of outrage in Orange, in Chatham, in Mongomery, in Moore, in Randolph and in various other sections of the state, directly connected with this conspiracy in the two counties where the insurrection was declared to exist.

Mr. MERRIMON. The court have already decided that they will exclude such evidence.

Mr. BOYDEN. Mr. Chief Justice, we expect also to offer all the letters and advice which the governor received before he made the proclamation declaring those counties in insurrection. We expect to show communications made to him by most respectable citizens, of a condition of things not only in the counties of Alamance and Caswell, but in other counties but all forming a part of this conspiracy; and I suppose no lawyer can doubt, when we establish the existence of this conspiracy in the counties of Alamance and Caswell and

when we connect these associations with similar associations in other counties, and show that all are in furtherance of a common design, that that is not evidence, or will insist that it shall be excluded from the consideration of the court. More, sir, there is no law better settled in North Carolina, and in all countries where the common law prevails, than that when you establish a combination to carry into effect an illegal object no matter where, whether in the county of Alamance or in the county of Cherokee or the county of Currituck, if it is in furtherance of the objects of the conspiracy organized in these two counties, it is evidence. I say further that, if a man is murdered in Alamance or in Caswell, or is chastised in either of these counties, after the general conspiracy is proved, every man belonging to these organizations, no matter where he may have been, or how ignorant he may have been of the deed of darkness that was committed, he is answerable for every such act in furtherance of the objects of the organization. We expect fully and clearly and beyond all doubt to establish the existence of these secret organizations.

Mr. Manager SPARROW. Will the learned counsel allow me to interrupt him for one moment. I desire to ask whether the pending question is as to the admissibility of the protest of Governor Worth in evidence, or is it as to the admissibility of this class of testimony generally?

Mr. BOYDEN. The question has reference to the admission of the protest, and that is all. I hope I am apprehended by senators in my statements, for I endeavor to talk in a way that my ideas may be perfectly understood. I say that we expect to establish this; and then we say that this testimony, and all the circumstances which were before the mind of the governor at the time he issued this proclamation, and going as far back as the date of his inauguration, which have any tendency to throw light upon or explain his motives, no matter from what source they come, are competent to be offered in evidence, and will be offered.

The gentleman suggests that they might have moved to

strike out the allegation in the answer in reference to this protest of Governor Worth's. It is sufficient to say that they did not so move, and that it forms a part of our answer to-day. Have we not a right to prove the truth of the allegations contained in our answer when the whole object of the managers is to deny and falsify them? I entertain a very different opinion from the gentleman; and I say that as an allegation in an indictment can be answered and disproved by the defendant, so we have the right to prove the truth of what is alleged in the respondent's answer.

Mr. MERRIMON. Not unless it is material to the issue.

Mr. BOYDEN. It might be wholly immaterial, and yet we would have a right to prove its truth. It is put there. The managers have a right to contradict it and to deny the truth of the statement, and if so, have we not a right to aver the truth of it? It seems to me, Mr. Chief Justice and senators, that under one of the plainest propositions of law, that anything which transpired from the time of the inauguration of the governor down to the time when he issued his proclamation which can in any shape be connected with the proclamation is competent evidence, and this protest, we think, is a material fact. The governor alleges in his answer that the protest of Governor Worth was the foundation of these secret organizations.

Mr. BRAGG. Mr. Chief Justice and Senators, it seems, from the position taken by the gentleman on the other side, that we are never to have anything settled in this controversy. They now propose to do precisely what this court refused to allow them to do some days since. I refer to the printed journal of proceedings, page 564. This question was asked of Senator Gilmer while he was being examined as a witness: "I ask you "now do you know of any secret organization under either of "the names which have been mentioned in the course of the "trial, or any other names? Mr. Graham. Do you mean in "the county of Alamance? Mr. Boyden. Anywhere."

Then follows a discussion upon the question, and the matter

was submitted to the Senate, and on page 567 the court decided by a vote of 13 to 20 that the evidence was inadmissible.

Now, if we are to have anything settled at all, I think the question of the admissibility of this proof offered is determined. When the gentlemen tell us that their purpose is to follow up the evidence now offered with all the evidence ruled out heretofore by a direct vote of the court, they seek to undo what has been done, and are endeavoring to re-decide the question which has been decided. But I suppose the court will adhere to its decision.

Now as to the particular evidence offered. What relation has the letter written by Governor Worth to this responden, to this case? How does it become important to produce a communication written long before any of these difficulties which are now the subject of investigation here? What has it to do with the question of insurrection in the counties of Alamance and Caswell? The gentleman says that because the respondent has averred the writing of this letter in his answer it can therefore be proved, Sir, if he should choose to put in his answer a great many irrelevant matters it does not necessarily follow that they are to be admitted. I deny that they have a right to admit matter set up in the answer simply because they have set it up, and I would like to have the gentleman himself who is always confident in the position he takes to show me some authority for such a doctrine. I say that when the evidence offered is immaterial, is a mere surplusage and amounts to nothing, it cannot be admitted and this is the character of the proof which is offered here. The court have refused to admit the evidence given as to the existence of this organization outside of the counties of Alamance and Caswell, and *a fortiori* they cannot undertake to go back and admit what Governor Worth wrote to Governor Holden in 1868 when he entered his protest against being turned out of office. In that protest he claims himself to be the legal governor, and he protests against another man being put over him by military authority. True, the governor says he does not think the election was a legal

one, but that was his opinion, and certainly it has nothing to do with the matter before this court. As suggested by my learned associate, if the respondent is allowed to produce evidence of the existence of these outrages all over the state, we ought to be allowed to introduce evidence tending to show a condition of peace, quietness and good order all over the state. If this testimony is to be admitted where it is to end? The court have decided, and I think properly, that the investigation must be confined to the issue between the parties—I do not mean by that that any irrelevant matter which the governor has set up in his answer shall be admitted, but that the investigation shall be confined to the question of the truth or falsity of the charges made against him in the articles of impeachment. I regard the matter here offered as having no connection in any way with the charges, and it seems to me it is improper to be admitted.

Mr. McCORKLE. It is not our purpose, Mr. Chief Justice, to attempt to raise any question before this court which has been already settled, because, after a matter has been fully adjudicated by the court, we think it would not be paying due respect to the court to raise it again. The learned counsel who has just addressed the court says that the evidence we propose to offer is similar in character to that which was sought to be proved by Senator Gilmer when he was under examination. Now, what was the question there? It was simply whether these organizations existed in other counties than Alamance and Caswell. That was the sole enquiry. One of the objects which we have in view in offering this evidence to the court is to show that within two or three months, at least in the month of September, after the protest of Governor Worth had been filed, there did exist a secret political society in the county of Alamance, whose object and purpose was to carry out the declarations contained in that letter. We have offered it for what purpose? Not for the purpose of establishing any fact, not for the purpose of showing that, at that time, there was even a disposition upon the part of the people to oppose the

reconstruction measures, but for the purpose of taking that letter in connection with subsequent events which occurred in the counties of Alamance and Caswell, and to show what influenced Governor Holden in pursuing the course he did. How is a man's judgment to be formed upon any particular matter? It is upon isolated facts? Does it not require this fact and that fact and another fact all united to be presented to the mind before it comes to a given conclusion? Most clearly it does. That then being the case, is it not pertinent as showing the motives which influenced the respondent in the course which he afterwards pursued, that this letter came from the high authorities it did. And especially when we show the existence of organizations built up upon the very idea upon which that letter was framed in Alamance and Caswell? Would not that go to show the motives which controlled the governor? How are we to get at the motives of the respondent? We are we to get at them by his acts and the acts of others, and by the information he receives, otherwise we cannot have them at all.

Mr. GRAHAM. Mr. Chief Justice and Senators, I beg leave to add a word to what has been stated by my colleagues. What is the question which is before the court? What is the response to be made by each senator when called upon to render his verdict or judgment in this proceeding? It is whether the respondent is guilty of the allegations made against him in the several articles of impeachment. In the first and second articles it is alleged that he falsely, and without the semblance of truth, proclaimed the county of Alamance in a state of insurrection, and that he proceeded to organize a military force, and to arrest sundry good citizens of that county and imprison and maltreat them; and the question is whether he is guilty or not guilty of that. Now, sir, these facts are confined to a certain locality and the question is whether in that locality, which he chose to single out from all the other territory of the state to denounce and punish the people resident therein, there did exist the insurrection which he proclaimed. And, sir, how does the

question whether Gov. Worth wrote the respondent a July, 1868, give us any information upon that subject is well known that when this change in the governn place in the states of Georgia and Mississippi, inste governors surrendering under protest, as did the go North Carolina, they instituted suits in equity by i issued from the supreme court of the United States, t validity of the law; and with as much propriety mi proposed to give in evidence the record of the proce those suits as to give in evidence the course taken by governor of North Carolina when the change in th ment was made. One would be about as relevant t as the other.

Then, sir, upon the other question upon which the g have dilated at more length, and upon which they s in earnest in their efforts to prevail upon this court to decision which it has already made. It is manifest decision is correct. Sir, the people of the county of Al and county of Caswell come up to the representati people and complain that they have been maltreat governor of this state, and they claim that he shall b to answer for the injury which he has done to th abuse of his official authority. It is no justification to no excuse by way of motive or otherwise for him to although those people may not have been guilty of th some other people in the state were. The question i he can justify the proceedings which he took in reg people of those counties, and if he cannot he st demned. It will be time enough when proceedings tuted involving the course of his action in regard to tions of the state to come forward, and endeavor to certain crimes were committed or certain combinatio in other places; for the present the inquiry is wh charges contained in these articles are true, and nothi tinent to the issue except that which goes to show whe are true or not. We say that insurrection did no

those counties and that he imprisoned many citizens. He admits their imprisonment but he pretends to justify it by the actual condition of things existing in those counties and not by anything that Governor Worth had done, or that had been done by people elsewhere. The only evidence pertinent to sustain his justification is as to the condition of things existing there at that time.

Mr. SMITH. Mr. Chief Justice and Senators, very much of this discussion is outside of the point that is now before the court for decision. We are not now enquiring into the outrages committed in the counties of Alamance and Caswell. Whatever question may come in the further prosecution of this case, that is not now before us for consideration. We now offer in evidence the declaration that is coextensive with the limits of the state, and if it is admissible for any purpose, it is as admissible to show the state of things in Alamance and Caswell as it would be to show them anywhere else. We take a start from the beginning of the administration of the accused. Our line of defence as set out in the answer, is well known, and one point is that that protest of Governor Worth, though not with his sanction, was the starting point and was the cause of these illegal organizations. We all know Governor Worth too well to believe that he would ever have sanctioned the improper use made of his protest had he lived. Our purpose is to show that where Governor Holden alleges he believed that there existed an organization to obstruct the reconstructed government in North Carolina in its operations, and that that was his settled conviction produced by a series of facts commencing with the protest made by Governor Worth when a change in the government took place, he ought to be allowed to show it in order that the court may know what were the influences which determined his subsequent conduct. Now what is charged in the articles, is that the respondent "intending to stir up civil war and subvert per-"sonal and public liberty and the constitution and laws of "said state and of the United States and contriving and in-

"tending to humiliate and degrade the said state a
"people thereof, and especially the people of the co
"Alamance, and to provoke the people to wrath and v
"did, under color of his said office, on the seventh
"March, in the year of our Lord, one thousand eight h
"and seventy, in said state, of his own false, corru
"wicked mind and purpose, proclaim and declare t
"county of Alamance in said state, was in insurrectic

Now, sir, when it was charged that his act was do corrupt and wicked purpose and the most corrupt and purpose that could be imputed—a purpose to subvert t ties of the government of the state—are we not at li show that the first spark of opposition to the new gov was contained in a protest from his predecessor w received when he entered upon the discharge of his e functions?—and may we not follow up that with other ing evidence well calculated to make the impressio mind when he declares it was made, and by virtue o (and not from the corrupt and wicked intent impute charges) he acted, when he issued that proclamation subvert public liberties or to destroy the security of right but to uphold and defend the constitution of the the government established under it? Surely, I say, to be permitted to show that fact in repelling charg against him and show affirmatively the existence motives and honest motives in his whole conduct. sir, that in this view, it is but justice to the respondent to ascertain the real motives of his conduct to have b body the information and evidence that was before in order that they may judge whether he did act wick corruptly as charged, or from an honest belief that he charging his duties to the state in the responsible p which he had been placed.

The CHIEF JUSTICE. The only question now posed of is the admissibility of the letter of governo The presiding officer decides that the evidence is c

and should be admitted as tending to show the intent and motives of the respondent. It is objected by the counsel for the managers that this evidence is immaterial, and to receive it would be a waste of the time of the court. In the superior court the judge decides the matter of law, and can say beforehand that certain evidence has no bearing on the case. In a court constituted like this, the members on the final vote decide the matters of law as well as of fact; so it is difficult to say now whether the evidence offered will, in the end, be found to be material or not. At this stage of the proceedings it is admissible as tending to prove one of the allegations in the answer, which answer has been received and ordered to be filed by the court.

Senator EDWARDS. Upon that question, Mr. Chief Justice, I desire to have the sense of the senate.

Not a sufficient number of senators seconding the call for a decision of the question by the senate, it was not ordered.

The CLERK proceeded to read the communication of governor Worth to the respondent, in the words following:

STATE OF NORTH CAROLINA,
Executive Department,
Raleigh, July 1, 1868.

GOVERNOR W. W. HOLDEN, Raleigh, N. C.:

"SIR:—Yesterday morning I was verbally notified by Chief "Justice Pearson that in obedience to a telegram from "General Canby, he would to-day at 10, a. m., administer "to you the oath required preliminary to your entering upon "the discharge of the duties of civil governor of the state, and "that thereupon you would demand possession of my office. I "intimated to the judge my opinion that such proceeding was "premature, even under the reconstruction legislation of con-"gress, and that I should probably decline to surrender the "office to you.

"At sundown yesterday evening I received from Colonel "Williams, commandant of this military post, an extract from

"gen'l orders, No. 120, of General Canby, as follows: General
"orders, No. 120.

(Extract.)

HEADQUARTERS, SECOND MILITARY DISTRICT,
Charleston, S. C., June 30, 1868.

"'To facilitate the organization of the new state governments,
"'the following appointments are made: to be governor of North
"'Carolina, W. W. Holden, governor elect, vice Jonathan
"'Worth, removed; to be lieutenant governor of North Car-
"'olina, Tod R. Caldwell, lieutenant governor elect, to fill an
"'original vacancy, to take effect, July 1, 1868, on the meeting
"'of the general assembly of North Carolina.'

"I do not recognize the validity of the late election under
"which you and those co-operating with you claim to be
"invested with the civil government of the state. You have
"no evidence of your election save the certificate of a major-
"general of the United States army. I regard all of you as, in
"effect, appointees of the military power of the United States,
"and not as 'deriving your powers from the consent of those
"'you claim to govern.' Knowing, however, that you are
"backed by military force here, which I could not resist if I
"would, I do not deem it necessary to offer a futile opposition
"but vacate the office without the ceremony of actual eviction,
"offering no further opposition than this, my protest. I would
"submit to actual expulsion, in order to bring before the
"supreme court of the United States the question as to the
"constitutionality of the legislation under which you claim to
"be the rightful governor of the state, if the past action of that
"tribunal furnished any hope of a speedy trial. I surrender
"the office to you under what I deemed military duress, with-
"out stopping, as the occasion would well justify, to comment
"upon the singular coincidence that the present state government
"is surrendered, as without legality, to him whose own
"official sanction but three years ago declared it valid.

"I am, very respectfully,

"JONATHAN WORTH,
"Governor of North Carolina."

Mr. McCORKLE. We next offer in evidence the inaugural address of Governor Holden. We do not care about reading it; we only desire to put it in evidence.

Mr. BRAGG. For what purpose do you offer it?

Mr. McCORKLE. We offer it also as tending to show the motives of the respondent in issuing his proclamation.

Mr. BRAGG. We object to it, Mr. Chief Justice, on the ground that we do not regard it relevant.

Mr. McCORKLE. What we offer, Mr. Chief Justice, is a part of the official conduct of this respondent, and we offer it in that point of view. It shows the motives which influenced him. We do not desire to occupy the time of the senate in reading it, but we ask that it may be printed in the record of the proceedings.

Mr. GRAHAM. Mr. Chief Justice, I think the counsel might as well offer any harangue of the governor at any place in the state as to offer his inaugural address. The inaugural address of an executive officer is an announcement of the principles upon which he expects to conduct the government and it is no more, therefore, than a speech made anywhere else. It is no evidence in this case and is not even referred to in the answer. It might as well be claimed that all the messages accompanied with the voluminous documents addressed to the general assembly on the subject of internal improvements, the finances of the state, loss of the state's credit or anything of that sort to show that the motives of the governor had been patriotic. Then again, we object to it on the ground that it may very well be supposed to be evidence manufactured for himself.

The CHIEF JUSTICE. Unless the message is referred to in the answer, the presiding officer would rule it to be inadmissible.

Mr. McCORKLE. I really do not know whether it is referred to or not.

Mr. SMITH. It is not referred to, it is only offered as a part of the history of the times, and is a declaration of the

respondent *ante litem motem.* I think it is admissibl motive of the respondent is proper to be enquired into

Mr. GRAHAM. Mr. Chief Justice, in the addre respondent he does not speak of any apprehended insu and the document discusses only matters of state po other subjects not at all pertinent to the issue in this c

The CHIEF JUSTICE. That is the view that siding officer took, that it was too remote.

Mr. McCORKLE. We next offer in evidence a p tion of the respondent, dated October 12, 1868.

Mr. BRAGG. Is that referred to in the answer?

Mr. SMITH. Yes, sir, you will find it referred t middle of page 4 of the answer.

Mr. GRAHAM. We object to it. We do not see t proclamation is of the least consequence to decide th joined between these two parties.

MR. SMITH. Is it possible that my friend would to keep out evidence of peaceful efforts made by the r ent to prevent the recurrence of wrong and outrage, b consented to avail himself of the military power of th and that he did not use military force until he had e every effort to secure it through the civil authorities. competent evidence that he warned the people against uing in these unlawful organizations, and that he in the maintenance of public order and the supremacy o law, and that he made ineffectual attempts through agency to accomplish restoration of public order? Sl shown that military power was unnecessary and una without his being permitted to prove that he had exh peaceful remedies before he called an armed force into t The respondent has referred to this proclamation in h and he relies upon it. It is an official act of the go the state—official in all its aspects and bearings,—and to me that to exclude it would be to tie his hands a him utterly defenceless in meeting these allegations.

Mr. GRAHAM. Mr. Chief Justice, I would no

any evidence which would tend to show that the respondent was endeavoring to suppress an insurrection, but it is not competent to show any efforts to put down an insurrection which only existed as he was able to conjure it up for the occasion. He says that these evils are confined to a very few localities, and he hopes that they will speedily cease. He says in his answer:

"Not long after the induction of this respondent to office, he "became officially cognizant of a settled design, existing in vari-"ous parts of the state, through the aid of secret combinations "of a political character, of which he believes the aforesaid "protest was the nucleus, practically, to render null and void "said reconstructive acts, and to set at naught those provisions "of the federal and state constitutions. which secure political "and civil equality to the whole body of the people, without "respect to race, color or previous condition. Determined to "avert, if possible, the evil consequences which, it was foreseen, "must ensue from the attempt of such combinations to effect "the objects for which they had been organized, especially the "purpose to assail by force the right of suffrage guaranteed by "said acts to his colored fellow citizens, this respondent deemed "it his duty to issue his proclamation of October 12th, 1868."

He goes on in the same answer to show by the proclamation which he issued a year afterwards that there was general peace except in a few localities and he hopes that the disorders will soon cease there.

Mr. McCORKLE. Mr. Chief Justice and Senators, the course of the counsel for the managers in opposition to the offering of this evidence is remarkable. It is as if a county court were setting for the trial of a misdemeanor. What do we propose? We offer evidence for the purpose of showing the motive which controlled and actuated the respondent, and afterwards, we propose to show that, in this very message, he warns the people against the carrying of deadly weapons and instruments of that kind. He tells them that their object seems to be to subvert the government and resist the constitutional authorities and therefore it must be put down. I think

the proclamation of the executive department of the g
ment has always been received without proof. We say t
is the duty of the people to take just as much notice
proclamations of the executive as it is their duty to take
of the actions of the legislature and the decision of our
It is a co-ordinate branch of the government and its a
entitled to as much respect as those of any other depa
of the government, either legislative or judicial. For th
pase of showing that this is the view with which proclam
have been everywhere received, I call the attention of th
to 2 Phillips on Evidence, page 107. I read as follows:

"Statements of facts in acts of state, emanating fro
"crown, have credit attached to them in courts of justice.
"in the case of the King *vs.* Sutton, (4) before cited, the
"of king's bench determined that the king's procla
"(which recited that it had been represented, that certa
"rages had been committed in different parts of certain c
"and offered a reward for the discovery and apprehens
"offenders) was admissible in evidence, as proof of an in
"tory argument in an information for a libel, that acts
"particular description had been committed in those p
"the country."

We have offered this evidence not with a view of
within a stone's throw of the doctrine which is laid dow
but for the purpose of showing the motives and animus
controlled the governor in his future actions. Why,
spectacle does it present! The managers are permi
catch at this act and that act, and are to read this one
letters and that one of his proclamations, and when we
to show what his motives were, what it was that influen
judgment in coming to the conclusion he did, they
door is closed to him and he cannot be heard at all
proposition is a monstrous one. The proclamation is a w
of the people against the commission of crime. It reter
government as it has been reconstructed, and it does

me, if there is anything germain to the question before the court, it would be the introduction of these proclamations.

The CHIEF JUSTICE. The presiding officer decides the proclamation to be competent evidence. A proclamation is a public act of the executive addressed to the people and stands on a different footing from mere conversations with individuals.

The CLERK proceeded to read the proclamation in the words following:

"A PROCLAMATION

"BY HIS EXCELLENCY, THE GOVERNOR OF NORTH CAROLINA.

"EXECUTIVE DEPARTMENT,
"Raleigh, October 12th, 1868.

"Information has been received at this department that "military weapons, such as repeating rifles of various kinds, "have been imported into this state, and have been distributed "with ammunition and equipments to citizens in several localities. It is believed that boxes containing arms, ammunition "and equipments are concealed in divers places, ready to be "distributed as opportunity may offer.

"The object of the persons thus engaged must be either to "subvert the government, to resist the constitutional authorities, or to prevent a fair election in this state on the third day "of next month.

"The government of North Carolina has been lawfully and "constitutionally established. This government has been "freely and voluntarily formed by a majority of the citizens in "pursuance of acts constitutionally passed by the congress "under which my immediate predecessor held office from the "2d day of March, 1867, to the 1st day of July, 1868. The "constitutionality of these acts, if questioned during this period, "were nevertheless subscribed to and maintained by him, and "by every department of the government, from the said 2d "day of March, 1867, to the said 1st day of July, 1868;

"and now, that they have been executed by the con
"consent of the whole people voting under them at the
"for members of a convention, for the new constitution
"for members of congress and state officers, the result v
"has been effected closes the discussion in relation to t
"and renders the present constitution of government as
"and binding as were the constitutions of 1776 and 1835

"This government will be maintained for the folk
"among other reasons:

"1st. It has been lawfully and constitutionally estab
"by the whole people of the state. It is operating sm
"and harmoniously. Under it the people are quiet and
"able, and are just entering anew upon a career of pros
"It must not be upset or even assailed because the c
"people have been allowed to vote; or because they wi
"with a certain party; or because a few public men are
"office and a few are in.

"2d. Senators and representatives have been admit
"seats in that body. The state is, therefore, of as wel
"the union. It is as much of the union as New York
"other state. No state can secede, nor can congress
"state out, or sever its relations with the common gover
"If congress should, therefore, do what is exceedingly
"able, repeal the reconstruction acts, such repeal woul
"no more effect than a repeal of the acts admitting T
"Kansas to representation. The reconstruction acts ha
"executed, and are, therefore, beyond the reach of cong

"3d. The supreme court has no jurisdiction of the
"Its powers are expressly defined by the constitutio
"'judicial,' and not political. It has already been decid
"the question of admission to representation is a
"question, and that when determined by congress, a
"been in relation to North Carolina, the court will
"terfere.

"4th. The president could have no more power to
"the reconstruction acts null and void, with a view to

"tinguishment of the government of this state, than I would "have to declare that a certain county or counties in this "state should cease to exist.

"The government of North Carolina is, therefore, as firmly "established as that of any other state. It has the same con-"trol of the right of suffrage, and of its own internal affairs, "as the other states have; and it possesses equal power with "the other states to protect and perpetuate itself.

"The right of the people to have arms in their houses, and "to 'bear' them under the authority of law, is not questioned. "On the contrary, it is claimed as a constitutional right "sacred to freemen. The use of arms by the male population, "for peacable and lawful purposes, should rather be encour-"aged than otherwise; but when, in time of peace, weapons "of an extraordinary character are imported into the state by "political organizations, and deposited and distributed in a "secret manner among persons whose spokesmen deny the "authority of the existing government, and who publicly de-"clare that all government, to be authoritative and binding, "must proceed alone from one race of our people, a state of "affairs is at once constituted which renders it the duty of "every officer and every citizen to be more than usually vigi-"lant. It cannot be pretended that these arms are intended "for hunting or sporting purposes. It cannot be justly as-"sumed that they are necessary for the protection of those "who have them, since the whole power of the state and gen-"eral governments is pledged to protect the peacable and "the law abiding, whoever and wherever they may be.

"If it be the purpose of any portion of the people in any "event to resist the laws or to subvert the government, they "should bear in mind that *treason* is the highest crime that can "be committed; that they are liable to arrest and punishment "under the "act to punish conspiracy, sedition, and rebellion," "which will be enforced, if necessary, with a firm hand; and "they should reflect that the magnanimity of the government "which spared the lives and estates of those who engaged in

"the late rebellion, may not be extended a second time to save
"them from the consequences of their crimes.

"If it be the purpose of any portion of the people, by the use
"of arms, or by threats or intimidation, to prevent the people
"from going to the polls and voting as they may choose to vote
"on the 3d day of next month, it is my duty to inform them
"that force will be met with force, and that every person who
"may thus violate the law will be punished. Every race of
"men in this state is free. The colored citizen is equally entitled
"tled with the white citizen to the right of suffrage. The poor
"and the humble must be protected in this right equally with
"the affluent and the exalted. The election must be absolutely
"free.

"In view, therefore, of this condition of affairs, I have deemed
"it my duty to issue this proclamation, admonishing the people
"to avoid undue excitement, to be peaceable and orderly, and
"to exercise the right of suffrage firmly and calmly, without vio-
"lence or force of any kind. Every good citizen is gratified
"that North Carolina is at present as quiet and peaceable as any
"state in the union. Let us maintain this good name for our
"state. Let us frown indignantly on the use of brute force, or
"bribes, or threats, to control the election, and let every officer
"of the state, civil and military, be prepared to check instantly
"any incipient step to sedition, rebellion or treason.

"The flag of the United States waves for the protection of
"all. Every star upon it shines down with vital fire into every
"spot, however remote or solitary, to consume those who may
"resist the authority of the government, or who oppress the
"defenceless and the innocent. The state government will be
"maintained; the laws will be enforced; every citizen, what-
"ever his political sentiments, will be protected in his rights;
"the unlawful use of arms will be prevented, if possible, and
"if not prevented, will be punished; and conspiracy, sedition,
"and treason will raise their heads only to be immediately
"subdued by the strong hand of military power. The general
"commanding this department has instructed the district and

"post commanders to 'act in aid and co-operation, and in su-
"bordination to the civil authorities,' in maintaining the peace
"and in securing a free election. The power of both govern-
"ments is thus pledged to peace, order and tranquility.

"It is specially enjoined on all officers of the detailed militia,
"to observe the act to organize a militia of North Carolina,
"and to act in strict subordination to the civil power, and all
"magistrates, sheriffs and other peace officers are also specially
"enjoined to be vigilant, impartial, faithful and firm in the
"discharge of their duties, magnifying and enforcing the law,
"ferreting out offenders, protecting the weak against the strong
"who may attempt to deprive them of their rights; to the end
"that the wicked may be restrained, the peace of society pre-
"served, the good name of the state maintained, and the gov-
"ernment perpetuated on the basis of freedom and justice to
all.

"Done at our city of Raleigh, on the 12th day of October, in
"the year of our Lord one thousand eight hundred and sixty-
"eight, and in the ninety-third year of our independence.

"(L. S.)

"W. W. HOLDEN, Governor.

"By the Governor.

"ROBERT M. DOUGLAS, Private Secretary."

Mr. McCORKLE. We next offer in evidence the message of Governor Holden to the general assembly of Nov. 17th, 1868, or so much of it as is under the heading of the "Militia-
"law and order."

Mr. BRAGG. I do not think that is mentioned in the answer.

Mr. McCORKLE. It is not referred to in the answer nor is it necessary that it should be. I know of no rule of law and I do not think the gentleman can cite any authority which holds that every statement or matter of fact, as to a motive of action, must be set forth in an answer. We propose to read that portion of the message within which he sets forth that

complaints have reached the executive from different parties of the state, that men were riding about at night armed and disguised and were whipping and scourging unoffending citizens of both colors and he asks that there may be some legislation on the subject. We think that is competent to show the motives which afterwards controlled the respondent. The managers say in the first article of impeachment, that the respondent, regardless of his sworn duty, and with a view to oppress and outrage the citizens of this state, issued this proclamation. Have we no right to show that in answer to this charge that long, long before this proclamation was issued, he, in his message to the legislature, set forth the facts of the complaints which had reached him, and the outrages that had been committed, that there should be some legislation on the subject? Surely that evidence is germain to the question before the court. They have introduced evidence to show that his motives were corrupt, and from which they say they have conclusively shown that his object was not the enforcement of the constitution and the laws, but was to commit a palpable outrage upon citizens of the state, and that he was acting in defiance of the constitution and the laws. Those are the allegations which we propose to rebut, and we say that for almost two years these proclamations had been issued in refe rence to this state of affairs. The case then resolves itself into this: The respondent issues a proclamation urging the people to quiet and to submission to the laws of the land. He not only does that, but he attempts to enforce it through the enactment of such laws as will secure the full protection to the citizens of the state of life and property. Does not this go to show what animated him in his course? If that is not competent on the question of motive I do not know what is; and I will add further, that it was a part of his duty to furnish all the information he had relative to the condition of the state.

The CHIEF JUSTICE. The presiding officer decides that the evidence ought to be heard. The court is endeavoring to find out whether the respondent acted honestly or dishonestly,

"take arms, under whatsoever pretext, to regulate neig
"hoods and to dispense and execute such law as may be
"ceived only by themselves, they become dangerous to so
"and all good citizens should unite to put them down.
"matter so grave as this, involving as it does life and pro
"there should be no party feeling. I cannot believe that
"party in this state countenances or would uphold these
"night murderers, who go masked like cowards, the bet
"conceal themselves in their nefarious work and to escap
"detection and punishment they deserve. Least of all
"believe that any brave confederate soldier, who retired
"the army and submitted in good faith to the authority o
"nation, would unite himself with such men, and thus
"disgrace on himself, his family and friends.

"I trust the general assembly will at once so amer
"militia law as to authorize the governor to call out for
"service as many substantial white citizens as may be nec
"in an emergency to enforce the law and to put down these
"night marauders. It would not be advisable to e
"colored militia only in certain localities for this purpose.
"outrages referred to are confined almost exclusively to
"ties in which the white and colored populations are
"equal in number, or in which the whites have a
"majority. To call out the colored militia alone in those
"ties would be unjust to the colored race, and would
"pretext for increased exasperation among certain
"against the colored people; but as the law now is, an
"who may be ordered to perform service in the detailed
"tia may pay two dollars for exemption therefrom and eva
"vice, thus imposing the burden on volunteers, or on s
"cannot pay that amount.

"It is to be regretted that the army of the United Stat
"been so reduced by the action of congress that a larger
"ber of federal troops cannot be spared at all times fo
"state. The presence of a regiment of infantry, an
"companies of cavalry, stationed at different points,

"have a most salutary effect in repressing these outrages and "maintaining the peace. It is not doubted, however, that, in "an emergency, any number of federal troops that might be "required would be promptly furnished. No 'war of races,' "as it is called, will be permitted in this country. No organi-"zed resistance to established authority would for a moment "be tolerated. The national government, strong to protect "and jealous of the rights and liberties of those who are "supremely attached to it, is over all, and would not be slow in "in an emergency to vindicate its power and to visit with "condign punishment the insubordinate, the treacherous and "the guilty."

Mr. McCORKLE. We now offer in evidence a proclamation of the governor of April 16th, 1869.

The CLERK read the proclamation in the following words:

"A PROCLAMATION

"BY HIS EXCELLENCY, THE GOVERNOR OF NORTH CAROLINA.

"EXECUTIVE DEPARTMENT,
"RALEIGH, April 16, 1869.

It is my duty to publish the following act, passed by the General Assembly of North Carolina at its recent session:

"AN ACT MAKING THE ACT OF GOING MASKED, DISGUISED OR PAINTED A FELONY.

"SECTION 1. *The General Assembly of North Carolina do "enact,* Any person who shall disguise himself by painting his "face, or by wearing any mask or any other device for the con-"cealment of the face or person with intent to terrify or frighten "any citizen of the community, or part thereof, shall be deemed

"guilty of a misdemeanor, and be punished by fine or imp
"ment in the county jail, at the discretion of the court.

"SEC. 2. Any person or persons, either singly or in assoc
"with each other, who, being disguised or masked, or oth
"concealed in the manner described in the preceding se
"shall commit any tresspas or act by force or violence, wl
"now a misdemeanor by any statute of this state, or at co
"law, shall be deemed guilty of felony, and shall be impriso
"hard labor in the penitentiary for a term of not less th
"year, or more than ten years.

"SEC. 3. This act shall go into effect on its ratification, a
"governor shall cause the same to be published immed

"Ratified the 12th day of April, A. D. 1869."

No person in this state can be 'in any manner depr
his life, liberty or property, but by the law of the land."
man's house is his castle, into which no man can enter to
or disturb him unless by authority of law. The humbl
the poorest are entitled to this protection equally wi
wealthiest and most exalted. The courts will extend th
tection, and the executive is prepared to sustain the court
to do everything within the sphere of his powers and du
preserve peace and good order in society. Bands of m
go masked and armed at night, causing alarm and te
neighborhoods, and committing acts of violence on the i
sive and defenceless, will be followed and brought to j
and depredators and robbers, who live on the honest e
of others, will be made to feel the penalty due to their

It is hoped the evils complained of, and which are c
to a few localities, will speedily cease. The great body
people of the State are submitting quietly and peace
established authority, and laboring assiduously to retrie
fortunes and improve their condition. I appeal to th
body of the people to unite with me in discountenanci
repressing the evils referred to. Public opinion p
embodied and expressed will be more effectual in rep

these evils, and in promoting the general good that will result from the complete establishment of peace and order in every neighborhood in the State, than the execution of the law itself against offenders in a few individual cases. I respectfully and earnestly invoke this public opinion. By the regard which we all have for the peace of society and the good name of the State, I call upon every citizen to unite with me in discountenancing disorders and violence of all kinds, and in fostering and promoting confidence, peace and good-will among the whole people of the State.

Done at our city of Raleigh, this the 16th day of April, one thousand eight hundred and sixty-nine, and in the year of the independence of the United States the 93d.

(L. S.)

W. W. HOLDEN, Governor.

By the Governor:

W. R. RICHARDSON, Acting Private Secretary.

Mr. McCORKLE. We next offer in evidence the message of the governor to the legislature of November 22d, 1870.

Mr. Manager SPARROW. You mean the one sent to the present legislature.

Mr. McCORKLE. Yes, sir.

Mr. GRAHAM. That was a message that was sent since these acts were committed for which the respondent stands impeached, and is not admissible because it is *post litem motem.*

Mr. McCORKLE. The counsel is mistaken. It was a message sent before the respondent was impeached.

Mr. GRAHAM. But it was subsequent to the actions complained of which are imputed to him as criminal in these articles, and is equivalent to making a defence before the accusation can be made out, and clearly is not admissible upon any principle of evidence. It comes under the same principle as the evidence which the court rejected the other day—the proposition to prove that the respondent arrested Burgen after

the prisoners had all been released. We object to it as not competent in the cause.

Mr. Manager SPARROW. I think the message sent to the General Assembly had an appendix. I desire to know whether it is proposed to put in that appendix with the proof taken before the chief justice.

Mr. McCORKLE. We do not offer that at this time. We simply desire to put in one thing at a time.

Mr. GRAHAM. We object to the message or any part of it.

Mr. BOYDEN. Mr. Chief Justice and Senators, we think the message is competent. It is a public document. The gentlemen say that it is *post litem mortem*. That is altogether a mistake. There was nothing done in the investigation of the subject before the legislature until after this message. I do not suppose that the attacks in the newspapers are the institution of a suit or starting the question in the legal acceptation of the term. It is only the institution of this proceeding by the house of representatives which is the starting point. This is a public document which was issued before that. It is a communication which the respondent makes to the legislature, and it seems to me ought to be received.

Mr. MERRIMON. We object to encumbering the record with these irrelevant papers. They are mere surplusage, and can have no weight at all in determining the issue of this writ.

Sir, the accused is impeached for falsely proclaiming an insurrection in the counties of Alamance and Caswell. Suppose that he honestly thought there was an insurrection any where else in the state than in those counties, is that any apology or any excuse for making a false proclamation in reference to those counties? and yet this evidence is offered for that purpose. It is offered as exculpatory of the accused and I maintain that it cannot be offered for that purpose. And I maintain further, sir, when we show the accused has violated the constitution or his official oath, the law infers the corrupt motive, and he cannot repel it. Sometimes practical cases show

the operation of a principle. Suppose that the accused in the prosecution—the honest prosecution as these gentlemen will insist—of this military movement in the counties of Alamance and Caswell it should appear he had commanded Burgen to murder John Kerr, can it be that if he were indicted therefor he could not be convicted of the murder? Would a court of justice hear as exculpatory evidence that the accused believed there was an insurrection there if you were to offer to show that by way of defense? It is in evidence here that the accused intended to establish a military commission at Yanceyville in the county of Caswell, and to try John Kerr, Adolphus G. Moore and others for alleged offences. If that court had assembled, if any of these men had been tried and executed, there is no question but their execution would have been murder by every man who participated in the trial and execution, the executive included. Suppose he had been indicted in the superior court of Caswell county for murder, could his counsel in making his defence be allowed to show by way of exculpation and excuse on that trial that he had issued this proclamation, and that he believed there was an insurrection in one county and in another county? I suppose that will not be controverted. The court would not hear such evidence; and when it appears that he had ordered a court-martial to be assembled, and that that court-martial had tried and executed a party, the law draws the inference of malice and a corrupt purpose, and he cannot repel it. And, so here, when we say that, in violation of his oath of office, and in violation of the constitution, he falsely proclaimed the counties of Alamance and Caswell in insurrection he can not be allowed to excuse himself by statements made after the fact, and so, when he refused to obey the writ of *habeas corpus* issued by his honor the chief justice, and when he suspended civil authority, and proclaimed martial law in violation of the constitution, and he is put at once on his trial before the representatives of the people, he shall not be allowed to excuse himself by proclamations in the nature of stump speeches. I

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Mr. MERRIMON. We object to encumbering the record with these irrelevant papers. They are mere surplusage, and can have no weight at all in determining the issue of this writ.

Sir, the accused is impeached for falsely proclaiming an insurrection in the counties of Alamance and Caswell. Suppose that he honestly thought there was an insurrection any where else in the state than in those counties, is that any apology or any excuse for making a false proclamation in reference to those counties? and yet this evidence is offered for that purpose. It is offered as exculpatory of the accused and I maintain that it cannot be offered for that purpose. And I maintain further, sir, when we show the accused has violated the constitution or his official oath, the law infers the corrupt motive, and he cannot repel it. Sometimes practical cases show

the operation of a principle. Suppose that the accused in the prosecution—the honest prosecution as these gentlemen will insist—of this military movement in the counties of Alamance and Caswell it should appear he had commanded Burgen to murder John Kerr, can it be that if he were indicted therefor he could not be convicted of the murder? Would a court of justice hear as exculpatory evidence that the accused believed there was an insurrection there if you were to offer to show that by way of defense? It is in evidence here that the accused intended to establish a military commission at Yanceyville in the county of Caswell, and to try John Kerr, Adolphus G. Moore and others for alleged offences. If that court had assembled, if any of these men had been tried and executed, there is no question but their execution would have been murder by every man who participated in the trial and execution, the executive included. Suppose he had been indicted in the superior court of Caswell county for murder, could his counsel in making his defence be allowed to show by way of exculpation and excuse on that trial that he had issued this proclamation, and that he believed there was an insurrection in one county and in another county? I suppose that will not be controverted. The court would not hear such evidence; and when it appears that he had ordered a court-martial to be assembled, and that that court-martial had tried and executed a party, the law draws the inference of malice and a corrupt purpose, and he cannot repel it. And, so here, when we say that, in violation of his oath of office, and in violation of the constitution, he falsely proclaimed the counties of Alamance and Caswell in insurrection he can not be allowed to excuse himself by statements made after the fact, and so, when he refused to obey the writ of *habeas corpus* issued by his honor the chief justice, and when he suspended civil authority, and proclaimed martial law in violation of the constitution, and he is put at once on his trial before the representatives of the people, he shall not be allowed to excuse himself by proclamations in the nature of stump speeches. I

say that everything is pertinent which tends to show there was an insurrectionary state in the counties of Caswell and Alamance, and that all else is not pertinent. If he thought there was that state of things in Robeson, or in Jones, or in Onslow, or in Currituck, or in Cherokee, that is no excuse for him, in the eye of the law, or in the eye of justice, or in the eye of sound policy, for a false proclamation as to Alamance and Caswell. Therefore I say that the proposition to put in this message is improper, and has not the sanction of any law. I say so upon general principles as well as upon the other ground that the evidence is *post litem motem.*

Mr. McCORKLE. Mr. Chief Justice, it is a sufficient answer to my learned friend who has just taken his seat to state that the respondent is not arraigned for the murder of anybody.

Mr. MERRIMON. Yes, he is arraigned for the murder of the constitution.

Mr. McCORKLE. The gentleman has stated to the court that, if the respondent were now on trial for murder, certain declarations of other parties made would be conclusive on him, and that the evidence would convict him: and he has set forth further that whatever took place not only in proclamations that he might issue after declaring these counties of Alamance and Caswell in a state of insurrection, would be incompetent. What has all that to do with the question before the court? Here is a public document transmitted to the legislature, and made a part of the legislative records, just as much as anything else, and we therefore nave a right to read it in that point of view. Why surely we are not to be tied down as if we were trying an assault and battery case in a county court. We are here inquiring into the official misconduct of the respondent, and that only, and not into an alleged murder as in the case supposed by my learned friend. We certainly have a right to read it. It is a public document made so by law and we have as much a right to read it as to read any act of the assembly pertaining to the matter before the court.

The CHIEF JUSTICE. I cannot tell the nature unless it is read.

Mr. BRAGG. I was about to explain that, Mr. Chief Justice. If this evidence is competent then I say that any declaration made by the accused at any time is competent to be admitted.

The CHIEF JUSTICE. What is the date of the message?

Mr. McCORKLE. November 22d, 1870.

Mr. Manager SPARROW. It is a message to this present legislature.

Mr. BRAGG. If you will turn, Mr. Chief Justice, to page 7 of the answer, you will find an extract—a very long one—from this extraordinary message which it is proposed shall be introduced now, and I will read briefly from that page:

"For a more detailed statement of the purposes and objects of "the said secret political combinations, and of the means which "they adopted to effect said purposes and objects, and of the "outrages which they perpetrated, this respondent refers to "his message of November 22d, 1870, to the honorable the "general assembly of North Carolina, and quotes therefrom as "follows:

It will be seen that this all speaks of the past, that it is entirely defensive on the part of the accused. I shall not read the extract which is the part I presume he intends to put in evidence. He goes on to give a narrative of these past transactions as he understood them and chose to communicate them to the legislature with sundry comments setting forth two or three proclamations and continuing down to page 20 where he he says; "this respondent therefore denies and declares to be "both false and scandalous the allegation in said article, &c."

Now all this took place after the matter of which complaint is made in these articles of impeachment. It is a declaration of the accused attempted to be made not only to the legislature but to the world of his past conduct, and if a man can, upon any principle of law, be allowed to come in at any time subsequent to the offence which is alleged to have been committed

and give his own statement, whether he be an officer or not, it is a new idea to me. I say that that statement cannot be heard in his behalf.

The learned counsel says that it is not *post litem motem* because the articles of impeachment had not then been prepared. Why, sir, he had every reason to believe that they would be found. He knew that he had been arraigned before the public and this message is an attempt to make the defence of his conduct before the legislature. But that is not material. They are matters subsequent to the acts which are charged to have been crimes on his part, and it is well settled that, after an offence has been committed, no party whether he be officer or otherwise can be allowed to create a defence and he give that defence in his evidence.

I think, Mr. Chief Justice, this course of proceeding has gone far enough; any thing that took place before committing the offence the presiding officer has ruled to be admissible as explanatory of the respondent's conduct and as going to show the motive with which he acted. The gentlemen of the other side insisted that it was only as to the motives of the governor that they offered the other evidence, and that they did not offer it as evidence of the fact recited in these proclamations. They stated that they offered it simply to show that he acted in good faith. Now they seek to show a long defence made by himself in the public document. I know of no rule of reason that gives such additional weight to such a document as to change the rule of evidence and make it admissible. If it is not admissible on the question of motive, it certainly cannot be admissible for any other purpose. What his motive was, is to be shown from something which took place before, and he cannot be allowed to explain his motives by acts which transpired after the offence with which he is charged. So that in any point of view whatever, the evidence is incompetent.

Mr. BOYDEN. I think, Mr. Chief Justice, that the testimony is admissible on the principle which obtains in an action

for malicious prosecution. You cannot, in such a case, offer what took place afterwards on the question of probable cause, but, to defeat the action altogether, you have a right to show that the man was guilty of the offence charged. Just so here, we have a right to prove facts and circumstances that existed in the county of Alamance tending to show that there was really a state of insurrection. But this is offered not only with that view but upon another view as well. The constitution of North Carolina requires the governor in his annual message to communicate to the general assembly such information touching the condition of the country as he deems important for the legislature to act upon; and the message is clearly competent evidence to go before the country and to go before this court in reference to the condition of things in North Carolina. It was his duty to communicate it and it is just as much the duty of the court to take notice of this proclamation in these proceedings as it would be to take notice of any public law in North Carolina touching the case.

The gentlemen say that it is *post litem motem.* I deny it. The proceedings were not commenced in the house of representatives until days after this message was delivered to the general assembly- It is a public document communicated to the legislature by the respondent in his official capacity which he was bound to communicate, and therefore it is competent to go before this court for whatever it may be worth. When the court come to its judgment they may think it of little consequence; but it seems to me that it is a question on the weight of its proof and not as to its admissibility.

Mr. Manager SPARROW. I desire, Mr. Chief Justice, to say a word in reference to this matter. The illegal act of which complaint has been made before this body against the governor, took place last summer. He sends a message with exculpatory statements months after these occurrences had taken place and by which he seeks to excuse himself for his conduct during the summer. And the counsel for the respondent now offer that message designed to excuse the respondent

for his acts, as evidence to be considered by this court. It seems to me that the proposition is too absurd to talk about.

Mr. McCORKLE. Mr. Chief Justice, the learned counsel seem to confound the distinction existing between trials in an ordinary court of law and a proceeding in this court; and they seem to confound the distinction between the competency and the weight of testimony. The argument which they have adduced to show the incompetency of his evidence is a matter that addresses itself solely to the court. It is a matter of argument whether the declaration that the respondent made in this public message in November, 1870, to the legislature shall have any weight; but certainly it is competent to be introduced,

Mr. GRAHAM. Mr. Chief Justice and Senators, I beg leave to say a few words, and first, sir, as to what is meant by *lis mota.* That does not pertain at all to the time the writ was issued or the legal proceedings commenced, but to the time when the controversy arose, and this arose last summer.

Then, sir, in relation to the proof: The learned gentleman [Mr. Boyden] states that they offer this message in evidence for the purpose of showing the guilt of the parties that the governor proceeded against. The respondent has alleged it in hi answer and it is now proposed to be proved and how? By proving that he said they were guilty in his message! How does it go to make any such proof? It is not only a declaration made by the party long after the controversy, but after the time when he had reason to apprehend that he would be called to account for it. It is offering his own declaration in order to prove the allegation contained in the answer. It is not clearly admissible upon any ground.

The CHIEF JUSTICE. The presiding officer decides that the evidence is not admissible under any rule of evidence with which he is familiar. The learned counsel, Mr. Graham, is right in saying that *post litem motem* does not mean after the writ is issued. It means after the matter is discussed and has become a subject of public controversy.

Mr. McCORKLE. We next offer in evidence the act of the

general assembly to prevent persons from going masked or disguised.

Mr. MERRIMON. I would suggest, Mr. Chief Justice, that that is a public law and that it is hardly necessary to put it in evidence.

The CHIEF JUSTICE. It may be considered as read. Everybody is bound to take notice of the acts of the legislature.

Mr. McCORKLE. We next offer in evidence a letter from certain citizens of Alamance county to the governor under date of February 28, 1870, stating the existence of the outrages there.

Mr. Manager SPARROW. We object to the admission of the letter, Mr. Chief Justice, on the ground that it is secondary evidence. The parties themselves who wrote the letter ought to be summoned here to prove them. We object to proving the fact in this manner.

Mr. McCORKLE. Mr. Chief Justice, the act of the legislature makes the letter-books of the executive evidence for all purposes.

Mr. BRAGG. Is the letter you refer to in the letter-book?

Mr. McCORKLE. It is.

Mr. GRAHAM. Mr. Chief Justice, the act of the assembly does not make the letter evidence. It provides that the letter book shall be at all times open for inspection to the members of the general assembly. As to the facts alleged in those letters they can be proved by the authors of them in the usual way.

Mr. BOYDEN. Mr. Chief Justice, that is not the point of view in which this testimony is offered. This testimony is furnished to the governor from trustworthy citizens of the county and whether the statements they made are true or false is not the question. It is the testimony laid before the governor by the people of the county of Alamance and he is to consider it and give it that weight to which, in his judgment, it is honestly entitled. It would be evidence even if the

men should come here to day and swear there was no word of truth in what was in their letter. It would be ter from them to the governor which ought to have aff his judgment. That is the view in which the letter i sented and not in regard to whether the statements mad are true or false.

Mr. GRAHAM. Mr. Chief Justice, the question h whether these informers had any ground for such a com cation. If they had let them be examined and testify what the facts were. It is like any other hearsay comm tion. It is not hearsay that justifies the invasion of the of the people. It is not hearsay that authorizes the go to go and seize as respectable men as are in the land and m them. If he can furnish any plausible excuse at all fo acts it ought to be upon the sworn testimony of someb other and that is what we should have here.

Mr. McCORKLE. Mr. Chief Justice and Senator gentleman virtually concedes the point when he says matter affecting the judgment of the governor that there o be evidence introduced here as to who these parties are. is exactly what we propose to do. We propose to read thi to show what was the condition of that county at the tir then we propose to show who the parties are who gave tha mation. Suppose it turns out, as I assert it will, that the i tion came from as respectable a gentleman as lives in the co Alamance, would it not be some ground for the action governor? If it turns out that it comes from a person character is not worthy of credit, it would not weigh s with the court; but surely it must be competent to sh the governor received letters as to outrages that had be mitted in Alamance. The allegation is that he acted without the authority of law, and that his whole con declaring the county of Alamance in a state of insurrect actuated by the basest motives. It is with a view amongst other considerations, that this evidence is Just suppose for a moment that a man of character tells

strate that A B committed a henious offence within one or two hundred yards of him and that the magistrate acting on the information should take out a warrant and have the party arrested, would it be pretended that the magistrate was guilty of a malicious arrest? We say the governor acted on the testimony of persons upon whose word he ought to have relied. If he acted upon the evidence of men of straw, it would have been for the court to say whether he exercised that degree of judgment which he ought to have done in issuing his proclamation. But surely if he receives a letter from any source (especially when it will be afterwards shown that it was from men of character) it would have weight with the court to show that he acted not from bad motives, and that if he erred at all it was an error of judgment. I desire to cite an authority upon this point. I read from I Greenleaf, sec. 101.

"Thus, where the question is, whether the party acted pru-
"dently, wisely or in good faith, the *information* on which he
"acted, whether true or false, is original and material evidence.
"This is often illustrated in actions for malicious prosecutions,
"and also in cases of agency and of trusts, so, also, *letters* and
"*conversations* addressed to a person whose sanity is the fact
"in question being connected in evidence with some act done
"by him, are original evidence to show whether he was insane
"or not. The *replies* given to enquiries made at the residence
"of an absent witness, or at the dwelling house of a bankrupt,
"denying that he was at home, are also original evidence. In
"these and the like cases it is not necessary to call the persons
"to whom the enquiries were addressed, since their testimony
"could add nothing to the credibility of the fact of the denial,
"which is the only fact that is material. This doctrine applies
"to all other communications, wherever the fact that such com-
"munication was made, and not its truth or falsity, is the point
"in controversy. Upon the same principle it is considered
"that evidence of *general reputation, reputed ownership, public*
"*rumor*, general notoriety and the like, though composed of the
"speech of third persons not under oath, is original evidence

"and not hearsay, the subject of enquiry being the conc
"of many voices to the same fact."

Mr. Chief Justice, suppose it were shown that
or forty of the best men in Alamance or in Casw
written to the governor detailing such a state of facts a
warrant him in declaring those counties in a state of i
tion, and suppose further that it should afterwards t
that their statements were comparatively groundless, v
the communication would be competent in justificatio
governor's course to show that he acted upon such evi
any sane or reasonable man would have received? W
clearly such evidence would be competent in that point

Mr. MERRIMON. Mr. Chief Justice, this evi
offered upon the ground that it is exculpatory. Taki
granted that there was no insurrection, no state of thi
warranted the action of the governor, he offers this
that he acted in good faith. Sir, I contend that the
is not competent even in that view, and for thi
among others which have been submitted: if the
issues a proclamation without proper evidence being la
him of the existence of it, and it turns out that the
actual insurrection, all well; but if, sir, he issues a proc
without proper evidence—evidence recognized by law
turns out there was no insurrection then, sir, he ca
excused. Before the governor shall issue a proclam
claring a county in insurrection he must have it appea
according to law, that there is insurrection and he
act upon mere rumor. If he acts upon rumor or fal
sentations, not made upon oath, he cannot excuse him
shall turn out that there is no insurrection, for the re
he did not act according to law. While my friend wa
the admissibility of this testimony a moment ago, n
turned to the insurrections that have transpired in thi
as historical facts which illustrate my idea. In the
insurrection, the Rhode Island rebellion and the Shay r
every insurrection that has ever occured in this

witnesses were examined under oath before the executive or his agents before the proclamations of the president were issued. You may examine the American state trials which grew out of the Dorr rebellion, or the trial of the Northampton insurgents, and you will find that before action was taken, it was shown upon proofs, before a competent officer, and not upon rumor, that there was insurrection. The accused offers to exculpate himself for these alleged crimes which have been perpetuated by men under his direction by introducing what? No more or less than mere rumors—in this case a written communication signed by a half dozen men, stating that a certain state of things existed in Alamance county; and he offers that as his warrant for taking the extraordinary steps he did. I make this argument to show that his position is untenable in law—to show that the governor cannot take these extraordinary measures until it shall appear to him, by lawful proof, that insurrection exists, and that he cannot excuse himself by showing that he innocently acted upon rumor in a matter of this magnitude.

Mr. SMITH. Mr. Chief Justice, there are two grounds upon which this testimony is objected to. One is that it is secondary evidence, and the other is that even if the originals were produced, it is inadmissible. I answer the first point by reading the statute, being sections 15 and 16 of chapter 53 of the Revised Code.

"He [the governor] shall appoint a private secretary, who "shall enter in books kept for that purpose, all such letters, written by and to the governor, as are official and important; and such other letters as the governor shall think necessary.

"The letter-book shall be deposited in the office of the exec- "utive by the private secretary, and there carefully preserved; "and the governor shall produce the letter books before the "general assembly whenever requested."

I also read in the same connection, section 8 of chapter 44 of the Revised Code:

"Copies of all official bonds or writings recorded or filed as

"records in any court, or lodged in the office of the go
"the treasurer, comptroller, or secretary of state, shall
"petent evidence as the originals, when certified by the
"of such records or writings under the seal of the offic
"there is such seal, or under his hand when there is
"seal, unless the court shall order the production of
"ginal."

Mr. MERRIMON. That of course means where
dence is competent.

Mr. SMITH. It means that this book is competen
as there is any question as to the evidence being sec
The book becomes a *quasi* record in the office, and
authority to give certified copies which can be used w
the original may be used. Then as to the other ol
The gentlemen did not take the view they now urg
days ago when they read the newspaper articles for the
of charging the governor with criminal neglect in not e
into the acts of these military officers. They then said
bound to act on that information—anonymous
tion—without any responsible name attached to it—a
harsh editorial criticism. Now the objection is that do
which have so much force and effect that they are req
statute to be recorded upon the records of the governo
and when signed by responsible names and the va
which cannot be questioned, are not to be admitted
question of showing whether he had acted in good
say, sir, that upon the question of the intent with
acted it is material to show that he acted upon inf
upon which an ordinarily prudent man would rely in
cerns of life. Sir, if there were an armed body comi
the line of this state and couriers should come here
municate verbally to the governor the fact of that in
he to stand with his hands tied until some man who
approach will come and swear to the fact? If he sh
in such an emergency, and permit the state to be ov
would be, as he ought to be, impeached for the n

those means which were placed in his hands by the laws of the country, and which were imposed upon him by the duties of his office to maintain and support the laws in every part of the state. We think the evidence is fully and amply sufficient for the purpose for which we have offered it.

The CHIEF JUSTICE. In respect to the truth of this letter, it is not competent evidence because it is mere hearsay; but in respect to the fact that the letter was before the governor at the time he took action it is competent to be introduced for what it is worth.

The WITNESS, Mr. Neathery, read the letter offered from page 313 of the governor's letter book in the words following:

"GRAHAM, N. C., February 28th, 1870.

"*His Excellency, W. W. Holden,*

*Governor of North Carolina:*

"DEAR SIR:—We are under the painful necessity of inform-
"ing you of the commission of the most atrocious murder ever
"committed in any community. On the night of the 26th
"inst. a body of disguised men came into our town at about
"one o'clock, broke into the house of Wyatt Outlaw and took
"him to the public square near the court house and hung him
"to the limb of a tree, when he was found hanging the next
"morning, his neck broken, with a piece of paper writing
"pinned to him, 'Beware you guilty both white and black.'
"This body of disguised men were seen by three of the under-
"signed and are estimated to consist of from seventy to one
"hundred in number. Outlaw was an industrious mechanic,
"well to do and prospering. No crime can be alleged against
"him except that he is a colored man, a republican, and has
"presumed to hold the office of town commissioner for two
"terms, once by your appointment and the second by an
"election of the people. On the same night these disguised
"men broke into the house of Henry Holt, a colored man.
"Holt escaped, but they left word with his wife that if he did
"not leave by next Saturday night they would hang him, and

"cut a cord from his bed with which they hung Wyatt.
"Within the last two weeks brutal outrages have become com-
"mon, almost nightly, and people have become so terrified
"that they dare not report the outrages committed on them.
"Every republican in the county who has stood up for his own
"rights and that of the freedmen is in danger. The civil au-
"thorities are powerless to bring these offenders against law
"and humanity to justice. Out of the numberless cases oc-
"curring in the county not one has yet been indicted, much less
"punished, and we know of no way in which these bands of
"lawless men can be put down and punished except by the
"strong arm of the military. Our people are not only alarmed,
"but many are in great danger. If these disturbances are not
"arrested many will have to seek safety from home.

"We respectfully submit to your excellency to take such
"steps as will insure the quiet of the county and the safety of
"all citizens.

Very respectfully,

"H. A. BADHAM,
"J. W. HARDEN,
"P. R. HARDEN,
"HENRY M. RAY,
"W. A. ALBRIGHT.

"We respectfully recommend Henry M. Ray as a suitable
"man to take charge of the militia of this county. He is brave
"firm and reliable, and will exercise his authority discreetly.

"Respectfully,

"HENRY A. BADHAM,
"P. R. HARDIN,
"J. W. HARDIN,
"W. A. ALBRIGHT."

Mr. McCORKLE. The next evidence we offer is the proclamation of the governor, dated October 20th, 1869.

The CLERK proceeded to read the proclamation in the words following:

# A PROCLAMATION

BY HIS EXCELLENCY, THE GOVERNOR OF NORTH CAROLINA.

EXECUTIVE DEPARTMENT,
RALEIGH, October 20th, 1869.

Notwithstanding the existence of peace and good order in other portions of the state, I regard it as my duty to announce that in four counties, to-wit: Lenoir, Jones, Orange and Chatham, there is, and has been for some months past, a feeling of insubordination and insurrection, insomuch that many good citizens are put in terror for their lives and property, and it is difficult, if not impossible, to secure a full and fair enforcement of the law. Information has reached, and continues to reach the executive, that in the above counties a state of feeling exists which is totally incompatible with the free exercise, by the friends of the government, of that independent expression of opinion, and that freedom of action which is the birthright of every American. In Lenoir and Jones various thefts and murders have been committed; jails have been forcibly opened and the prisoners taken thence have been murdered; an officer of the law has been waylaid and slain on the public highway, another officer of the law has been slain in the open day while engaged in his ordinary avocations. Private dwellings have been entered and the occupants terrified, and some of them whipped or murdered; others have been shot or hanged or cruelly beaten; and the result is that thus far the civil law, though firmly asserted and maintained, has not been adequate to bring the insubordinate and the wicked to condign punishment. In Chatham the jail has been forcibly opened and a prisoner, confined under sentence of a court of the United States, has been liberated and is now at large. In Orange the jail has been forcibly opened and two prisoners (colored men) taken out and shot, one of whom has died of his wounds.

Three other colored men have been hanged until th dead, one has been cruelly mutilated, and others hav whipped. White citizens have been injured, insult terrified. The university of the state, sacred to the learning, has been repeatedly invaded by bands of arm in disguise on horseback, and acts of violence have bee perpetrated on unoffending citizens and officers of t Many of the colored people in these counties, and no i erable portion of the white people, though obedient to and good citizens, are living under constant apprehensi they may fall victims at any moment to the malice enemies.

It is made my duty under the constitution "to call militia to execute the law, suppress riots or insurrect to repel invasion." I deeply regret that it seems nec resort to the military power to enforce the law and t the citizen. But the law must be maintained. I hav in vain, hoping that a returning sense of reason an would arrest these violations of the law. But these stead of diminishing have increased, and no course is l but to issue this proclamation of admonition and to all the people of the counties mentioned, whether in these flagrant violations of law, or whether indif insensible to what is occurring in their midst. I now every citizen in the counties aforesaid to aid the ci in a fearless enforcement of the laws. No set of men the law into their own hands. Every citizen, howeve or whatever his color, has a right to be at peace i house, and cannot be taken thence except by due pr cannot be punished save by the law. If there be counsel resistance to established authority, such p traitors and should be punished accordingly; if ther who, disguised, or masked, enter the dwellings of force and commit acts of violence, such persons are felony, and should be punished by hard labor in th tiary; if there be those who, without precept or o

or shoot, or otherwise deprive any one of life, such persons are murderers, and should be punished accordingly.

I now give notice in the most solemn manner, that these violations of law and these outrages in the aforesaid counties *must cease:* otherwise I will proclaim those counties in a state of insurrection, and will exert the whole power of the state to enforce the law, to protect those who are assailed or injured, and to bring criminals to justice. In a matter like this there should be no party feeling. It is my fixed purpose to protect every citizen without regard to his antecedents, his color or his political opinions; but to do this the law must be sacred, must be spread over all alike, and must be inflexibly maintained.

Done at our city of Raleigh, this the 20th day of October, in the year of our Lord, one thousand eight hundred and sixty-nine, and in the ninety-fourth year of our Independence.

(L. S.)

W. W. HOLDEN, Governor.

By the Governor:

W. R. RICHARDSON, Private Secretary.

Mr. McCORKLE. We next offer in evidence a proclamation of Governor Holden, dated June 6, 1870.

The CLERK proceeded to read the proclamation in the words following:

## PROCLAMATION

BY HIS EXCELLENCY, THE GOVERNOR OF NORTH CAROLINA.

EXECUTIVE DEPARTMENT,
Raleigh, June 6th, 1870.

WHEREAS, In January or February, 1869, the house of Daniel Blue, colored, in the county of Moore, was entered at night by a band of disguised men, known as the Kuklux Klan, and the wife of the said Blue, who was pregnant, and

five of the children were murdered, and the house with the bodies of the murdered persons aforesaid was burned; and

Whereas, on the 26th of February, 1870, Wyatt Outlaw, colored, a citizen of Alamance, was taken from his house in the town of Graham by disguised persons known as the Kuklux, and hanged by the neck until he was dead, on a tree near the court house; and

Whereas, on the 21st day of May, 1870, John W. Stevens, white, state senator from the county of Caswell, was murdered in open day-light in the court house in the village of Yanceyville, by persons unknown, supposed to belong to the Kuklux Klan aforesaid; and

Whereas, on the 13th of May, 1870, Robin Jacobs, colored, living near Leasburg, Caswell county, was murdered at night by a band of the Kuklux Klan aforesaid; and

Whereas, from the 2d of April, 1870, to the 15th of May, 1870, not less than twenty-one persons, white and colored, in the aforesaid county of Caswell, were cruelly whipped and scourged by a band or bands of the aforesaid Kuklux Klan; and

Whereas, during the week ending the 14th of May, 1870, a colored man in the county of Lincoln was taken from his bed at night and tied to a tree by a band of disguised persons known as the Kuklux Klan, and cruelly whipped; and

Whereas, about the same time, in said county, a band of men disguised, known as the Kuklux Klan, in said county shot a colored man on the public highway, and then told him they had shot him through mistake for another colored man but laid him on a pile of fence rails and told him to cry for help; and

Whereas, a colored man named Puryear, of the county of Alamance, supposed to be half-witted, having followed two of the disguised murderers of Wyatt Outlaw to their homes and having spoken of the fact publicly, suddenly disappeared and was found drowned in a mill pond with a twenty-pound rock to his feet; and

"Whereas, T. M. Shoffner, one of the senators in the general assembly of this state from the counties of Alamance and Guilford, has been compelled to sacrifice his property, and, to save his life, to make his escape from said county on account of his opposition to the Kuklux Klan aforesaid, and his devotion to the government of the United States; and

Whereas, on the 26th of May, 1870, a most atrocious murder was committed by three disguised men on Neill McLeod and Daniel McLeod, white, of the county of Cumberland, and three others of the family were wounded by these assassins; and

Whereas, in divers other localities peaceable citizens have been insulted in their houses, put in fear for their lives, whipped, scourged, maltreated, mutilated and murdered by persons disguised and known as the Kuklux Klan; and whereas, retaliation has commenced by the burning of barns, stables and mills; and whereas, all these evils are to be traced to the Kuklux Klan aforesaid, though no apology can be offered for the retaliation referred to, for it is equally to be deplored and reprobated as a wicked violation of the law; and upon due information laid before me, (which information has not been furnished,) that barns, or stables, or mills, or dwelling houses, have been burned by incendiaries, mentioning localities and the persons to whom the said barns, or stables, or mills, or dwelling houses belonged, rewards will also be offered for the arrest and conviction of the incendiaries aforesaid:

Now, THEREFORE, I, WILLIAM W. HOLDEN, governor of the state of North Carolina, do issue this my proclamation, offering a reward of FIVE HUNDRED DOLLARS for the arrest of each of the murderers of the wife and children of Daniel Blue, of each of the murders of Wyatt Outlaw, of each of the murderers of John W. Stephens, of each of the murderers of Robin Jacobs, of each of the persons who murdered Puryear, and of each of the persons who murdered Neill McLeod and Daniel McLeod, and robbed the family of the said Neill McLeod, together with such evidence as will lead to the conviction of

the persons thus arrested; those who planned, advised or counselled the commission of the act; those who participated in the act or acts; or those who conspired to conceal the bodies of the murdered, or aided in the concealment and escape of the felons;

And I enjoin upon all officers, civil and military, to aid in bringing these and all other offenders to justice; and especially to discountenance, discourage and repress all organizations of men who ride or walk at night in disguise, with arms in their hands. It is a misdemeanor thus to go disguised, and it is felony if these disguised persons molest or injure peaceable citizens in their life and property.

{ L. S. } Done at our city of Raleigh, this sixth day of June, in the year of our Lord one thousand eight hundred and seventy, and in the ninety-fourth year of our independence.

W. W. HOLDEN, Governor.

By the Governor:

W. R. RICHARDSON, Private Secretary.

Mr. McCORKLE. We next offer in evidence a letter from the respondent to Thomas A. Donoho, dated April 22d, 1870.

Mr. MERRIMON. Mr. Chief Justice, we object to the letter. I make this objection with a view to show where this course of evidence will lead us. These proclamations, and all these papers are introduced here for the purpose of showing the lights which shone down upon the mind of the accused when he proclaimed the counties of Caswell and Alamance in a state of insurrection. Now, if it is competent to offer evidence of this sort outside of these counties and not bearing directly upon them, or upon any issue presented, I ask, sir, if it is not perfectly competent for the managers, when they come to reply, to show that the respondent sent troops out in various counties to control elections where there was no pretence of any offences, and where there was no ground for it. That is the logical consequence of admitting the proof now offered, and we are to be

detained here until next July in trying a case upon evidence that has no bearing upon the issue before the court.

Mr. McCORKLE. Mr. Chief Justice, the counsel for the managers have been fruitful of objections to the evidence we have offered, but we think this is the most barren objection that has yet been taken. What do we propose doing? Prior to the county of Caswell being declared in a state of insurrectirn, the governor of the state issued a letter to a prominent citizen of that county, and a political opponent, asking him to accept some appointment I believe, and asking him for information as to the condition of affairs in that county. That is all. The reply of the gentleman goes on to detail the condition, &c. If that is not competent to show the motives which influenced this respondent in his future course I do not know what is competent.

Mr. GRAHAM. Mr. Chief Justice, they might as well introduce the correspondence with any other individual. It seems to be a correspondence begun by the governor himself. It is a communication by the governor and the reply to it. It has no relevancy whatever to the question now pending before this court, and any other hearsay would be just as competent as the evidence now offered.

Mr. SMITH. Mr. Chief Justice, my friend, Mr. Graham, has not apprehended the purpose for which we propose to put in this evidence. It is not merely that the respondent issued a proclamation, but we have endeavored to show that he had been making use of these powers and means that the law placed in his hands to peaceably effect the ends which eventually had to be accomplished by the aid of the military. One means resorted to was the issuing a proclamation warning the people against committing these outrages; and it was only when all peaceful means were exhausted that he resorted to the power conferred by the Shoffner act. We propose to show that the governor requested a highly respectable gentleman of opposite political sentiments to himself to endeavor to effect an amicable arrangement among the people, and that he appointed that

gentleman an agent for that purpose in order to prevent necessity of resorting to extreme measures.

Mr. MERRIMON. Suppose what the accused stated true, did that justify him in proclaiming an insurrection v there was no insurrection? That is the point in here.

The CHIEF JUSTICE. The presiding officer is of opinion that the evidence is competent for the purpo showing that the governor was endeavoring to get inform such as any intelligent man under such circumstances w wish to act upon.

Senator MERRIMON. Mr. Chief Justice, I ask tha senate decide the question.

Not sufficient number seconding the call, the questic the admissibility of the letter was not submitted to the

The WITNESS, Mr. Neathery, proceeded to read the in the words following:

"EXECUTIVE DEPARTMENT,
"State of North Carolina,
"Raleigh, April 22, 18

"THOS. A. DONOHO, Esq.,

"DEAR SIR: I have reports from Caswell of acts of vic "committed on both white and colored persons. Not on "personal rights and property to some extent endangere "the good name of the county may be seriously injured.

"I appeal to you and other gentlemen of characte "standing to interpose and arrest these violations of law.

"I would be glad if you would visit and consult wit "Roan and others on the subject.

"It is important to check these acts of violence at onc "before the excitement of the campaign begins.

"I would be glad to hear from you on the subject.

"Very truly yours,
"W. W. HOLDEN, Govern

Mr. McCORKLE. We next offer in evidence the letter from Mr. Donoho to Governor Holden, in reply.

The CLERK proceeded to read the letter, in the words following:

"MILTON, N. C., May 16th, 1870.

"GOVERNOR HOLDEN:

"DEAR SIR:—I received some time since yours of the 22d "ult., which you did me the honor to address me in reference "to acts of violence committed on both white and colored per-"sons, &c., in this county.

"I have delayed an answer until I could communicate per-"sonally with gentlemen from other portions of the county "remote from me. I live, perhaps as you are aware, in the "extreme northern part—have been closely confined at home "during the past twelve months, and do not feel competent to "speak confidently of the state of affairs in other portions of "the county.

"As for my own section—the northern part—I can unhesi-"tatingly affirm, of my own knowledge, that the utmost good "order, respect for law, and safety for person and property "prevail.

"There have been two—and but two—outrages on persons; "and in these two cases no political questions, nor questions of "race or color were involved. In the one the act of violence "was committed on a white person, and originated in a family "scandal. In the other, the victim was a colored man, and "the offence theft, the *corpus delicti* being found in his house. "This negro was of bad character, resided immediately on the "Virginia line, and evaded process of law by taking himself "across the state line.

"These two acts of violence were promptly denounced by "our people. I did not hear a voice raised in excuse or palia-"tion. So pronounced and outspoken was public opinion in "condemnation of these outrages, that no repetition of them "need be apprehended.

"With these two exceptions I think I can truthfully say that "in the past twelve months as few offences against the criminal "law, or against the peace and security of society, of which "the grand jury could take cognizance, have occurred here as "in any other portion of the country north or south.

"It is but simple justice to them to say that I have never "seen a people who have set themselves to work to repair their "shattered fortunes and build up their waste places with more "spirit and resolution than have these. I have never known "a time when politics, state or national, engrossed so little of "their attention, and I can venture to affirm that in no other "portion of the state does a better feeling prevail between the "races than in this portion of Caswell county.

"I attribute this state of affairs *mainly* to our contiguity to "the state of Virginia, where wiser and better counsels have "prevailed than in North Carolina, and partly to the fact that "our staple crop—tobacco—is commmanding high prices. "Our people find it more profitable to devote themselves to "their private than to their public affairs.

"As I have already intimated, I do not feel qualified to speak "as understandingly of other portions of the country. I "have heard that in the part bordering on Alamance, and in "the parts having business and social relations with Yancey-"ville, the same perfect quiet and order does not prevail. I "suppose the infection which is said to prevail in the afore-"mentioned county has spread across the line; and, as you "know, rather extreme political opinions prevail about Yancey-"ville.

"In an adjoining township I have heard of several outrages "and acts of violence perpetrated on blacks and whites by "persons in disguise; and these in return have been ruthlessly "revenged by acts of incendiarism on *innocent* parties.

"I have recently seen several gentlemen from that town-"ship, and they apprehended further trouble if more moderate "counsels do not prevail on both sides. These gentlemen, as "well as others, are using their influence to stay and quiet all "extremes, and I hope and trust with good results.

"I think there is a general feeling among all reflecting men, "and those who have anything to lose, that this system of vio- "lence and lawlessness on both sides must be checked—other- "wise not only will the good name of the county be 'seriously "injured, as you suggest, but the interests of all good citizens "and the very welfare of society jeopardize.

"I do not feel, in closing this letter, that I should be dis- "charging my full duty to the people of this county, and to "yourself, governor, without hazarding an observation or two, "which, if received in the same frank spirit as they are offered "may have a tendency to restore a better state of feeling in the "county.

"It is an unfortunate circumstance for the welfare of the "county, as well as for the interest of your party, that the re- "cognized exponent of the republican party in the county, "should be a person of the *antecedents* and *surroundings* of the "member who represents the county in the state senate.

"I do not think there would have been any violent antagon- "ism between a respectable portion of the white people of the "county and a *liberal* republicanism, but for the misrepresen- "tation of republicanism. But the good people of Caswell "cannot be expected to affiliate with a party whose recognized "standard bearer sustains such a character at home, as does the "individual alluded to.

"I think I do you but justice when I say that you cannot "suspect me of any *selfish* view in the observation just made.

"I would take the liberty of suggesting to you, governor, "that you should pursue towards this county a similar course "to the one that you adopted with good results in Orange. "That you appoint some liberal, intelligent, moderate *gentle- "man* of character in this county as commissioner, with whom "you could advise, and whose interests would not be promoted "by a misrepresentation of the true state of affairs here.

"There are a number of such, whose names I could mention "to you, who are entitled to your confidence, and whose simple "appointment, (as did Col. Jones, of Orange,) would indicate to

"our people a liberal and conciliatory policy on the part of t
"executive of the state.

"There are a number of such gentlemen in and around Y
"ceyville. I would suggest for one the name of Wm. B. Bo
"esq., who for a time held position in the Freedman's Bur
"in the county, with great acceptance to our people.

"But it is time I was bringing this hurried letter, alre
"longer than I intended, to a close. I have written you franl
"honestly, with no personal ends to subserve apart from
"welfare of friends and neighbors.

"If this spirit and these views meet your approbation, I sl
"be gratified.

"I am, with respect, your ob't servant,

"T. A. DONOHO.

Mr. McCORKLE. We next offer in evidence a letter fr
Governor Holden to Colonel Kirk dated August 3, 1870.

The WITNESS, Mr. Neathery, proceeded to read the le
in the words following:

"STATE OF NORTH CAROLINA,

"Executive Department,

"Raleigh, August 3d, 187(

"COL. GEORGE W. KIRK, Yanceyville:

"DEAR SIR:—This will be handed you by Col. R. T. Be
"brigade quartermaster.

"You have done well in sending troops to various point
"preserve the peace on the day of election. As there i
"civil law at present in Caswell which can take hold of
"punish offenders, it will be your duty to hold in camp for
"present all persons charged with having broken the law.
"will enquire more fully into this matter and forward inst
"tions on the subject.

"It is to be regretted that the farmers and others in Cas
"are turning off their hands, and refusing to pay them t
"wages. I know of no remedy for this but in the act of
"gress to enforce the fifteenth amendment. As soon as

"election is over I will request the marshal to send a deputy "to Caswell to inquire into this grievance and take the necessary steps to remedy it.

"It is reported that Lieut. Col. Burgen put a rope around "the neck of William Patton, one of the prisoners, to force "him to confess. Evidence attained in this way is worthless. "All prisoners no matter how guilty they may be supposed to "be, should be treated humanely. From my knowledge of "your character I am sure it is only necessary to call your "attention to this matter.

"No prisoner should be paroled or released without authority "from headquarters.

"I should like to have the names of officers in your regiment "who would be suitable to compose a part of the military court. "The pending election and the necessity for some of the officers "to be absent on duty, have prevented the meeting of the court "as early as I wished it. It will meet one day next week. It "is important to have all the evidence that can be procured. "The following officers besides those of your regiment will "compose the court: Maj. Gen. W. D. Jones, Brig. Gen. C. "S. Moring, Brig. Gen. W. R. Albright, Col. H. M. Ray, Maj. "J. W. Hardin, Capt. Robert Hancock, and another officer "probably from Alamance. This will leave six to be supplied "by your regiment, and the court will consist of thirteen.

"Col. Berry will report to you, and will supply you with "what you need. You will inform him whether you require "more horses for the service.

"Respectfully,

"W. W. HOLDEN,

"Governor and Commander-in-Chief."

Mr. McCORKLE. We now offer in evidence another letter from Governor Holden to Colonel Kirk, dated August 22d, 1870.

Mr. GRAHAM. Mr. Chief Justice, we object to the admission of that letter. That is certainly *post litem motem*—after

the prisoners were discharged. The court ruled out evidence of that kind the other day upon the same ground. The prisoners I think were discharged on the 20th.

Mr. SMITH. Last week the managers were allowed to prove affidavits published in the newpapers as late as the 20th day of August, within two days of the period when this letter was written.

Mr. GRAHAM. We withdrew the affidavits finding that they were after the prisoners were discharged. The presiding officer will remember the affidavits of Murray, Patten and Rogers who had been hung were proposed to be read in order to show that the governor had notice of the fact that they had been hung, but when the fact was called to our attention that the publication was after the prisoners were discharged, we withdrew the affidavits.

The CHIEF JUSTICE. That is the recollection of the presiding officer.

Mr. SMITH. The affidavits are published in the proceedings of last Friday.

Mr. GRAHAM. Then it is a mistake of the reporter. I recollect that Mr. McCorkle raised the objection that the affidavits were published after the discharge of the prisoners and hence it was conceded that they were not admissible as bringing to the attention of the respondent notice of the alleged out rages.

Mr. SMITH. That does not accord with my recollection and I find that the report reads as follows:

"Mr. Manager Sparrow read in evidence the affidavit of "Lucian H. Murray published in the *Sentinel* of August 20, "1870, in the words following:"

Then the affidavit is set out and next follows this:

"The Chief Justice. The presiding officer thinks it hardly "necessary to detain the court by reading these other two affi- "davits; they can be considered in evidence and referred to."

"The affidavits referred to are in the words following."

Then follow the affidavits of Weeden and Rogers.

Mr. GRAHAM. Only Murray's affidavit was read, and upon its being brought to the attention of the managers that the affidavits were taken after the date when the prisoners were discharged it was conceded that they were incompetent and the whole were withdrawn.

Mr. McCORKLE. Mr. Chief Justice, whether those affidavits were withdrawn or not, we insist that the evidence now offered is competent, because the managers have offered evidence to show even by newspapers that the respondent was cognizant of the offences that had been committed by his subordinates. Now, for the purpose of repelling that, we offer this evidence to show that it was not the intention of the respondent that the prisoners should be badly treated, but on the contrary, that he desired that they should be treated humanely.

Mr. MERRIMON. But he does not suggest that until long after the crimes complained of have been committed.

Mr. GRAHAM. And after the prisoners had been discharged.

Mr. McCORKLE. If that is so, then it will be a matter of argument to be considered by the court sitting as a jury.

Mr. GRAHAM. Mr. Chief Justice, it does not matter what the motive may have been. These prisoners had been discharged by no agency of the respondent and against his wishes. The court has rejected evidence as to declarations after these transactions, on the ground that they could throw no light upon the question of motive. Indeed, when the letter to Kirk ordering the arrest of Burgen, dated the 22nd of August, was offered, it was ruled out.

Mr. Manager SPARROW. As to the action, Mr. Chief Justice, in reference to the affidavit of Murray and others, I have a distinct remembrance now. When I had commenced reading the affidavit of Murray, it was mentioned that it was after a particular date and then it was that it was withdrawn, that I discontinued the reading and withdrew the affidavits. It is evidently a mistake on the part of the reporter.

Mr. McCORKLE. Mr. Chief Justice, we say it would be a

matter for the court to determine hereafter in deciding upon the guilt or innocence of the respondent whether this letter to Kirk was written in good faith or otherwise. If it was a mere subterfuge, of course it would weigh nothing.

The CHIEF JUSTICE. The presiding officer is of course disposed to conform to the ruling of the senate. They held that the order of the governor for the arrest of Burgen, having been issued several days after the prisoners were discharged, was incompetent to be admitted in evidence. The opinion of the presiding officer was that it ought to be heard, and be passed upon for what it is worth. But the senate having held a different view, the presiding officer desires to conform to the rule adopted and hence decides that the letter now offered is incompetent.

Mr. McCORKLE. What do I understand the ground of the ruling of the chief justice to be?

The CHIEF JUSTICE. That because the letter was written after the prisoners were discharged, it is not admissible.

Mr. McCORKLE. I next offer in evidence a message of Governor Holden to the general assembly, dated December 16, 1869.

The CLERK read the message in evidence in the words following:

"EXECUTIVE DEPARTMENT,
"Raleigh, Dec. 16, 1869.

"To the Honorable the General Assembly of North Carolina:

"GENTLEMEN:—Allow me respectfully and earnestly to call "your attention to the necessity which exists for such amend-"ments to the militia law as will enable the executive to sup-"press violence and disorder in certain localities in this state, "and to protect the persons of citizens, their lives and their "property.

"Since my last annual message, dated November 16, 1869, "numerous outrages of the most flagrant character have been "committed upon peaceable and law abiding citizens, by per-

"sons masked and armed, who rode at night, and who have "thus far escaped the civil law. I have adopted such measures "as were in my power to ferret out and bring to justice all "breakers of the law, without reference to their color or to the "political party or parties to which they belong, and I am sat-"isfied the judges and solicitors in the various circuits have "been prompt, energetic, and impartial in the discharge of "their duties. Notwithstanding this, gentlemen, the outrages "referred to seem to be rather on the increase in certain locali-"ties, insomuch that many good citizens are in a constant state "of terror, and society in said localities is in a deplorable con-"dition. It is for your honorable body to apply the remedy "by so strengthening the arm of the executive as to enable him "to repress these outrages and restore peace and order. I have "confidence in your wisdom, in your regard for law, and in the "disposition which I feel sure exists in every member of your "honorable body to adopt such measures as will speedily put "an end to the evils complained of.

"I have the honor to be, gentlemen, with great respect,

"Your obedient servant,

"W. W. HOLDEN, Governor."

Mr. McCORKLE. We next offer in evidence a letter from Governor Holden to Doctor Pride Jones, dated March 4, 1870.

Mr. MERRIMON. Mr. Chief Justice, we certainly object to that. I submit that this is a case within the principle determined by the senate in the decision they rendered, ruling out evidence of Kuklux outrages, as they were termed, outside of the counties of Alamance and Caswell.

Mr. SMITH. We have offered this evidence for the court to pass upon in the final determination of the case. The county of Orange adjoins the county of Alamance and we expect to show that this secret organization is not confined to county lines but it existed on both sides of those lines. The object now is to show that effort was made through Doctor Jones, one of the most respectable citizens of Orange county, and a gentleman of

different political sentiments from the governor, to prevent the commission of these outrages.

Mr. GRAHAM. Mr. Chief Justice, to admit this testimony wr ;u e an entire reversal of the action of the court upon that subject. Here we have the executive of the state proceeding violently against the people of the counties of Alamance and Caswell, and it is for his maltreatment of them that he is brought to justice. In his defence he says that there was a state of things there which justified him in the employment of military, by which they were to be deprived of the rights which they possessed under the law of the land, and be subject to military control and punishment.

This court has stated that they would not receive evidence in reference to the existence of secret organizations inimical to the government of the state, existing beyond the limits of the counties of Alamance and Caswell, and I do not suppose they will do it now. Otherwise, the investigation must go through the entire state, and may extend even beyond its limits.

Mr. BOYDEN. Mr. Chief Justice, there is a marked distinction, to my comprehension, between the point decided by the court heretofore and the one involved in the question now propounded. It is alleged on the part of the managers that all this conduct on the part of the respondent was from corrupt motives, and was not honest; that he was not desirous of putting down these organizations, but that his real purpose was to excite a community into revolt and bring about a conflict. With what view do we offer this proof? It is to contradict that idea, and to show that the allegation on the part of the managers is false, and that the respondent was acting honestly and faithfully in the discharge of his duties, to wit: that he wrote to one of the most respectable citizens in the county of Orange, which joins Alamance, and gave him a commission and employed him to ride over the country and endeavor re difficulties which are extending over Orange from Alamance and Caswell. The object of the respondent was to restore peace and quiet without resort to military power;

and it seems to me that senators must admit that this evidence has the very strongest tendency to show that he was acting in good faith. It is not like the other question. It is a question which is pointed directly to the motive with which the respondent has been acting. How can it be said, when it was apprehended by the governor that these organizations were extending from one county to another and likely to spread over the entire state, and he should write to a political opponent of high character and employ him at the expense of the state to endeavor to compose these troubles without military force, that the fact is not admissible? Surely the court cannot rule out such testimony as that.

Mr. MERRIMON. Mr. Chief Justice, the question propounded to the senator from Guilford [Mr. Gilmer] was "Do "you know of the existence of any Kuklux organization in "Guilford county?" The presiding officer ruled that the question was competent; but the sense of the senate being called for, it was ruled to be inadmissible by a large vote. What did the gentleman say he offered it for? His speech then is almost the duplicate of the speech that he has made here, for he said that the purpose was to show the motive of the governor for his action and to show that this same lawless, insurrectionary organization existed out of the county and that he was moved by reason of the existence of this organization in the county of Guilford in part, to make the steps he did where the organization had developed itself. The gentleman's speech now is an effort to satisfy the court that there was a like breaking out in the county of Orange of an insurrectionary movement which had developed itself fully in the county of Alamance. He says that this correspondence with the gentleman referred to in the county of Orange, tends to illustrate his motive and purpose. It is true the question is different in terms and that it is about a different matter, but it must be apparent to every mind which can comprehend a legal principle that it is based upon the same idea that has been decided. I insist that this proof offered comes within the express ruling of the court when

they stated that they would not hear anything in referenc the existence of the alleged Kuklux organization outside of counties of Alamance and Caswell.

Mr. McCORKLE. Mr. Chief Justice, the gentleman been discussing a question which is not before the court. do not propose to prove that there was outrages committe the county of Orange. That is not the purpose for whicl offer this correspondence, it is offered for the purpose of shov that the governor was actuated not by malice,—not by desire to treat the citizens of the state in violation of the stitution and the laws as alleged in the articles of impeachm but for the purpose of showing that he was actuated by a s of duty in making enquiries, not only in the counties of mance and Caswell, but before Alamance had been declar a state of insurrection, and that he took such measures as e prudent man ought to, by enquiring of some of the first of the county, what should be done to avert the troubles w existed. This letter is dated March 4, 1870, and it is comp to show what were the motives that influenced and contr the respondent thereafter; and we do not offer it as pr the existence of the Kuklux organization in the county of Or

Mr. MERRIMON. I desire to ask the counsel a que What was the ground upon which you asked the senator Guilford the question as to the existence of the Kuklux c ization in Guilford county?

Mr. BOYDEN. It makes no difference, Mr. Chief J upon what ground the question was asked. The questio totally different.

Mr. McCORKLE. The difference is a very marke When Senator Gilmer was being examined we asked a tion in reference to a distinct fact, as to whether such o zations existed; here we propose to show that effort made by the executive in accordance with a sense of d put down lawlessness, in a peaceful way, long before dertook to avail himself of military force. Suppose we that Doctor Jones wrote to the respondent that the cor

of Orange county was such that the civil authorities were unable to execute the law, would not the respondent been justified at that time in declaring the county of Orange in a state of insurrection?

Mr. MERRIMON. No, sir.

Mr. McCORKLE. Most clearly it would have justified him, if Doctor Jones represented the general sentiment of the law-abiding people of the county. That is the view in which we offer the evidence, not for the purpose of establishing the fact of the existence of outrages in that county, but for the purpose of showing the motive which actuated the governor afterwards.

Mr. MERRIMON. Mr. Chief Justice, the respondent's counsel asked a question of Senator Gilmer for the purpose of showing motive. They offer this proof for the purpose of showing motive. They both rest on the same principle. The proof offered is only different in words, for the object of the testimony in both cases is the same.

Mr. BOYDEN. Admitting, Mr. Chief Justice, that one question which is asked for the purpose of showing motive is not competent, does it necessarily follow that another question for the purpose of showing motive is not admissible.

Mr. GRAHAM. The respondent is arraigned here, Mr. Chief Justice, on a charge of having maltreated the people of the counties of Alamance and Caswell. He proposes, in his defence, to show that he was about to treat the people of another county in the same way. Is any such evidence as that competent? That is the point. The question here is, whether, in this trial, the court is to go outside of the allegation of the parties. I insist that the proof offered is wholly irrelevant to the issue.

Mr. SMITH. Mr. Chief Justice, my friend did not see any difficulty when he went into the evidence of the proceedings before Judge Brooks on the discharge of the prisoners at Salisbury. He said that that evidence was competent to ascertain what was the real motive of the respondent in delivering

up the prisoners, and to use his own words, he said the respondent "beat an inglorious retreat." We pro to offer this as a part of the general evidence of the resp ent's dealing with these parties, and we have a righ prove his course in reference to the putting down of t outrages in any part of the state as bearing upon his motiv relation to his acts in the counties of Alamance and Cas If he acts uniformly everywhere else, upon the idea of re sing these outrages by the using of peaceful means, it is evid to submit the charge of corrupt motives animating him i course in the counties of Alamance and Caswell. We hav offered it to show outrages committed in Orange, no furnishing any ground for the issue of a proclamatio Orange. We simply say that he had a disposition to leniently with offenders against the peace of the state and not resort to a military force until he found that nothing would accomplish the result. The difference between us my friend is this, that he looks upon the military as a la assemblage of men to violate the public peace. We say when the respondent found his efforts unavailing to pre persons from outrage by the ordinary means employed in so it was his duty, under the constitution of this state, to em the militia to accomplish that end.

Mr. MERRIMON. Mr. Chief Justice, that is one o specious arguments of my friend that has no substratu support it. He says this evidence is competent because court received certain evidence of the proceedings that place before Judge Brooks. But the cases are not analagous. proceedings before Judge Brooks were caused by the arr persons in Alamance and Caswell by the accused, wherea evidence that he offers now has no relation to those co whatever.

Mr. SMITH. Mr friend has made use of precisely the remarks he employed on another occasion. He said wh were discussing the question of the admission of state made by parties under alleged duress, that my argument

"more specious than solid." I am gratified to say that this court sustained me in my view.

Mr. MERRIMON. It may be that they will do it again.

The CHIEF JUSTICE. The presiding officer thinks there is some misapprehension as to the ruling which has been referred to in the course of the argument. The evidence which was offered and upon which the ruling of the senate was taken was not for the purpose of showing the motive of the governor but to show that, in point of fact, these organizations did exist in the county of Guilford, from which it was doubtless intended that the inference should be drawn that they also existed and were connected with others in Alamance. The evidence now offered is not to show the existence of the Kuklux organization in the county of Orange, but to show that Governor Holden used those measures which a prudent officer would use for the purpose of getting information in reference to the condition of things, and taking steps to prevent outrage in that county. In his answer, the respondent states that in the county of Orange, where Mr. Turner was arrested, the arrest was justified upon the ground that there was a great deal of excitement and feeling which had been created by Mr. Turner. How far that would bear upon the question of motive the presiding officer does not know, but he thinks that the evidence is admissible in that view.

Senator LINNEY. Mr. Chief Justice, I would like to have the sense of the senate taken in reference to the point which has been just decided by the presiding officer if it is not too late.

A sufficient number seconding the call for a decision by the court,

The CLERK proceeded to call the roll of senators on the admissibility of the correspondence offered, and it was decided in the affirmative by the following vote:

Those who voted in the affirmative are:

Messrs. Barnett, Beasley, Bellamy, Brogden, Cook, Cowles,

Currie, Dargan, Eppes, Flemming, Flythe, Hawkins, H
Latham, Lehman, Moore, Murphy, Norment, Olds, P
Robbins, of Davidson, Robbins, of Rowan, Troy, Warren
Whiteside—25.

Those who voted in the negative are:

Messrs. Adams, Albright, Allen, Battle, Brown, Cro
Edwards, Gilmer, Graham, of Alamance, Graham, of Or
Linney, Love, Mauney, McClammy, Merrimon, Ski
Speed, Waddell and Worth—19.

The WITNESS, Mr. Neathery, read the letter from D
Pride Jones to the respondent in the words following:

"HILLSBORO', N. C., March 4th, 18

"SIR:—On the 3d inst., I had a long conversation wit
"John W. Norwood in reference to an enterview that h
"recently had with your excellency. He urged me to
"of a commission from you, for the purpose of attempt
"disband the secret organization in this county known as
"klux,' and restoring the laws to their supremacy.

"This is a consummation heartily to be desired by al
"citizens, and though more averse than even to any posi
"the service of the public, I feel constrained, by a se
"duty, to give my best exertions, however feeble they m
"in aiding the restoration of peace and order, and, shou
"deem me qualified for the position, I will accept it.

"I feel certain that in this county I can further your
"and believe that if my commission is extended to Alan
"can exercise a considerable influence there also.

"But if, as is rumored here to-day, your excellency
"obedience to the dictates of your duty, ordered troops
"county, you must pardon me for saying that I loo
"apprehension to the result, and my candid opinion is t
"'Kuklux' cannot be put down by force without a d
"amount of bloodshed and crime, and that the wise
"adopted by you in Chatham would be much more e

"here also. If troops have gone there, of course they cannot "be recalled at once; but I consider it of vital importance, "should you consider it expedient to extend my commission to "that county, for you to give me some authority in the prem-"ises, and enable me to say that upon such and such things "being done, that you will recall the troops.

"I would further suggest that your instructions upon the "subject of oblivion and pardon of the past be explicit and "clear, or my labors may be unavailing.

"It may be proper to add that I am not a member of the "'Kuklux' or any other secret political organization whatever.

"Very respectfully,

"Your obedient servant,

"PRIDE JONES.

"His excellency, W. W. HOLDEN, Raleigh."

The WITNESS, Mr. Neathery, also read in evidence the letter of citizens of Orange county to the respondent in the words following:

"HILLSBORO', March 5th, 1870.

"*To his excellency*, W. W. HOLDEN, *Governor of N. C.:*

"SIR:—The undersigned, citizens of Orange county, respect-"fully recommend Dr. Pride Jones, of Hillsboro', as a suitable "person to receive a captain's commission for Orange county. "We believe his appointment would give entire satisfaction to "our citizens, and would go far towards establishing, on a firm "basis, good order throughout the county.

"Very respectfully,

(Signed,) "J. W. NORWOOD,
"GEO. LAWS,
"JAMES WEBB,
"HENRY K. NASH,
"HENRY N. BROWN,
"O. HOOKER."

The WITNESS, Mr. Neathery, also read in evidence a
munication from the respondent to Capt. Jones, in the w
following:

"STATE OF NORTH CAROLINA,
"Executive Department,
"Raleigh, March 7th, 18

"To CAPT. PRIDE JONES:

"SIR: Please find enclosed a captain's commission ir
"45th regiment Orange militia. You will observe b
"papers that I have been constrained to declare the c
"of Alamance in a state of insurrection. I have done thi
"reluctance and regret. The civil law is silent and pow
"in that county. Many of the people of the county feel
"they are entirely insecure in their persons and propert
"their only hope is in such protection as the military can
"them. Federal troops, commanded by discreet officer
"be employed. The innocent and the law-abiding will be
"danger; but it is indispensable to bring the guilty to p
"ment. I concur with you, that the klan of Kuklux i
"formidable and war like, but I fear it will grow with
"gence, and that if vigorous measures be postponed it wi
"mately occasion much civil strife and bloodshed. I am
"anxious to preserve Orange, Chatham and other co
"surrounding Alamance from the infection of insurrect
"the latter county. Capt. Ramsay is doing a good w
"Chatham. The civil officers of the county of Orange a
"friends of law and order and are performing their du
"patriots. I wish, you, sir, to take command in Oran
"believe you can thus perform efficient and valuable serv
"your state.

"If you should accept this position, I should rely in s
"degree upon your firmness, moderation, and discretio
"therefore, at present, give no special instructions as
"manner in which you will discharge your duty. You

"while on duty, will be that of a captain in the regular army "of the United States. I would be glad to hear from you at "an early day.

"Very respectfully,

"W. W. HOLDEN, Governor."

The hour of half-past two having arrived, the court adjourned to to-morrow at eleven o'clock.

## TWENTY-THIRD DAY.

SENATE CHAMBER, February 25th, 1

The COURT met at eleven o'clock, pursuant to adjour
Hon. Richmond M. Pearson, Chief Justice of the Su
Court, in the chair.

The proceedings opened by proclamation made in du
by the doorkeeper.

The CLERK proceeded to call the roll of senators wl
following gentlemen were found to be present:

Messrs. Adams, Albright, Allen, Barnett, Battle, B
Bellamy, Brogden, Brown, Cook, Cowles, Crowell, Curr
gan, Edwards, Eppes, Flemming, Flythe, Gilmer, Gra
Alamance, Graham, of Orange, Hawkins, Jones, King, L
Lehman, Linney, Love, Mauney, Merrimon, Moore, N
Olds, Price, Robbins, of Davidson, Robbins, of Rowan, S
Speed, Troy, Waddell, Warren, Whiteside and Worth-

Senator TROY moved that the reading of the journ
proceedings of yesterday be dispensed with.

The CHIEF JUSTICE put the question on the m
Senator Troy and it was decided in the affirmative.

Mr. McCORKLE. Mr. Chief Justice, we desire t
the attention of the court a manifest error contained in
criptive pay roll of Company D., 2d Regiment state
commanded by Col. Kirk, which is printed in the a
The original shows that David C. Bowman was put
from Washington county, Tennessee. The remainde
company, fifty-two in number are shown to be from
county North Carolina, with the exception of David
who is no 25 on the list and was from Ashe county;
the printed list, laid upon the desks of the member
court, shows that the whole number were from W
county, Tennessee. We desire to have the error c
The adjutant general is here with the original m

and he can be examined in reference to it, if it is desired. It is evidently an error of the printer.

Counsel for the managers examined the muster roll produced by the adjutant general and consented that the corrections be made, and waved the examination of the adjutant general upon that point.

JOHN B. NEATHERY, *a witness called on behalf of the respondent, again took the stand and read the following letter from Captain Pride Jones to the respondent:*

"HILLSBORO', N. C., March 9, 1870.

"HIS EXCELLENCY, W. W. HOLDEN:

"SIR: Your favor of the 7th instant reached me this morn-
"ing with accompanying documents.

"I accept the commission and have already commenced the
"discharge of its duties. On yesterday I went eight miles
"in the country, believing that there was no time to be lost
"if my commission was to result beneficially, and was much
"gratified to find the parties appealed (to) earnestly respond-
"ing to my wishes.

"From the facts stated to me by Mr. Norwood, I represent-
"ed that the past would be overlooked, provided there was
"a disbanding of the klans and no further infraction of the
"laws; and I sincerely hope that your excellency, in your
"special instructions, for which I respectfully ask at your
"earliest convenience, will sustain me in the position assumed;
"for with such instructions I feel perfectly assured that I can
"restore the laws to their just supremacy, and this I take to
"be at this time the main object of my commission.

"I am, sir,

"Very respectfully,

"Your ob't servant,

"PRIDE JONES.

"N. B.—I omitted to suggest that if the 'Leaguers' were

"embraced in my instructions it would facilitate matters v
"materially.

"P. J.'

Mr. Neathery next read in evidence the following com
nication from the respondent to Captain Jones:

"RALEIGH, March 17th, 187(

"TO CAPTAIN PRIDE JONES:

"SIR:—Yours of the 9th was duly received, and would h
"been answered sooner but for the pressure of other busin

"I am gratified at your acceptance of the commission,
"trust that your efforts will result beneficially to society.

"It will readily occur to you that as the executive I have
"power to proclaim amnesty. The solicitor may enter a
"*pros.*, or he may not, and the judge may then sentence,
"then the power of commutation or pardon is with the ex
"tive. I am ready to do all that I can under the constitu
"and laws to compose troubles. It is not my purpose to
"secute or to take vengeance on any. What we want is
"mission to the laws, and peace in all the neighborhood
"the county. Public opinion can effect this more certainly
"on a more permanent basis than the ministers of the law
"under present circumstances. It is an important part of
"duty assigned you to embody and direct this public opin
"In doing this, much must be necessarily left to your own
"cretion. You are thoroughly acquainted with the peopl
"the county. You know their peculiar sentiments, their h
"and their modes of thought. Their prejudices, even, sh
"be respected.

"But the object of all this is to restore peace and good or

"Every citizen, no matter of what color or how poo
"humble, has a right to labor for a living without being
"lested; to express his political sentiments without let or
"drance; and to be absolutely at peace in his own h
"Every citizen has a right to attach himself to a secret poli

"organization; and these organizations are harmless, so long as "they respect the rights of person and property. But, though "lawful, they are not expedient. The time has passed when "they were even expedient. They can effect no special good "at present, but they may be the cloak or the occasion for mis-"chief. Especially are they so when the members disguise "themselves, and take arms and ride through neighborhoods "breaking the peace and terrifying the inhabitants. You will, "therefore, mildly but firmly discountenance and discourage "all secret political organizations, and especially those that put "on disguises and carry arms. It is a misdemeanor to go thus "disguised with intent to terrify, and it is a felony thus to com-"mit any act of violence.

"The authority with which you are invested is to be exer-"cised in strict subordination to the civil power.

"I take it for granted the sheriff of Orange can execute any "process that may be placed in his hands. But, if resisted, "you are authorized to take men to his aid as a *posse comitatus* "to ensure the arrest of criminals. And if criminals enter "Orange from Alamance they should be arrested and held for "trial.

"Your attention is directed to the acts published in the "*Standard*, *Sentinel* and *Recorder*, immediately after my proc-"lamation of the 7th March. Also to the "Act making the "'act of going masked, disguised or painted a felony,' laws of "1868-'69, chapter 267, page 613.

"I would be glad to hear from you frequently as to the "progress you are making in maintaining law and order in "Orange.

"Very respectfully,

"W. W. HOLDEN, *Governor*."

Mr. McCORKLE. We next offer in evidence the communication from Captain Ramsey to Governor Holden.

The CHIEF JUSTICE. What does it relate to?

Mr. McCORKLE. It relates to the same subject-matter of

the letters to Dr. Jones. It calls attention to the fact that negroes had been advised to burn barns, &c., and that in consequenee of the advice that had been given, he was satisfied that some barns had been burned. We propose to read that letter and the reply of the respondent for the same reason that we offered in evidence the correspondence in reference to the county of Orange yesterday. The court will remember that sometime before this, there was a proclamation issued which was especially directed to citizens of the counties of Chatham, Orange and others, and Person was included. Captain Ramsey had been appointed by the respondent to supervise the interests of that county as Doctor Jones had been appointed to supervise the county of Orange; and he writes to the governor what I have just stated, and asks his advice in the premises.

Mr. BOYDEN. It comes within the same principle that was decided yesterday.

The CHIEF JUSTICE. The correspondence would seem to come under the same ruling in regard to the correspondence with Doctor Jones.

The WITNESS, Mr. Neathery, read the letter from Captain Ramsey to Governor Holden in the words following:

"HAYWOOD, N. C., May 4, 1870.

"His Excellency, W. W. HOLDEN:

"DEAR SIR: One week ago I received a letter stating "that there was a certain man in this community who had been "advising negroes to burn houses, barns, &c., whenever they "were interfered with by any parties in disguise.

"In consequence of this advice (in my opinion) John "Boylan's barn was burned and also George Pegram's, in the "edge of Harnett county. Since my arrival here to-day I have "found evidence to substantiate the statement made in the "letter alluded to above.

"Two wrongs cannot make a right," and such advice to "negroes and bad white men, in these troublous times, will "prove ruinous to us unless put a stop to *instanter*.

"Please advise me what to do. I am trying to do all the "good I can, and will continue to do so.

"If you order the arrest of this man, he and the witnesses "shall be brought to Raleigh or anywhere else. I don't know "whether it would be best to bring his case before the grand "jury at our next court or have an earlier investigation.

"Please write me by Saturday's mail. Adress me at "Pittsboro.

"Yours very truly,
"N. A. RAMSEY."

The WITNESS, Mr. Neathery also read in evidence a letter from the respondent to Captain Ramsey in the words following:

"STATE OF NORTH CAROLINA,
"Executive Office,
"Raleigh, May 7th, 1870.

"CAPTAIN N. A. RAMSEY:

"DEAR SIR: Your letter of the 4th instant has been re-"ceived. The retaliatory outrages mentioned are greatly to be "deplored. *All* violations should be remedied through the "proper legal tribunals, and either laid before the grand jury, "or before some judge, for bench warrants.

"Retaliation for violence greatly aggravates the evil, and is "calculated to increase into real strife, produce distrust among "neighbors, and lead to bloodshed. All good citizens should "unite to enforce the laws. In this case, as in all others, the "proper resort is to the grand jury or the judge of the district, "and you should obtain all the evidence you can in the case.

"Very respectfully,
"W. W. HOLDEN, Governor."

ANDREW MURRAY, Jr., *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCORKLE.

Q. State your name, age and residence and occupation. A. I am about forty years of age; I live in Alamance county, and am both farmer and mechanic.

Q. Will you go on and state to the court if you know of any outrages committed by disguised men in the county of Alamance, and if so when and under what circumstances, and all about it?

Mr. MERRIMON. State what you know of your own knowledge.

A. Yes, sir.

Q. I would ask you what part of the county you live in? A. I live in the north-eastern corner of Alamance county.

Q. Adjoining what counties? A. Adjoining Caswell and Orange.

Q. Proceed and state what you know about outrages, if any, and where. A. Sometime in December—about the last of December, 1869, there was a party that I saw. That night a negro woman that lived near my house or rather a tenant, came to my house and woke me up to come and relieve her husband,—a party of men had him killing him. I went and she told me that they were in the direction of another tenant's that lived a little further on—about a quarter of a mile off. I took my gun and went, and when I got nearer this farthest house there was a tremendous fuss, beating and hollowing. I met, before I got to the house, this tenant's wife, saying that they would kill her husband.

Mr. MERRIMON. You need not state what she said.

Q. Who was the tenant? A. Jack Petillo.

Q. State whether he was a white man or a colored man? A. A colored man.

Q. When you got there what did you see? A. Well, when I got just opposite the house on the hill I saw a party of men, seven or eight in number, dressed in white with lanterns.

Q. Describe the dresses. A. Well, they had something like a gown upon them that came something like within a foot of the ground, I suppose.

Q. State how high the gowns extended. A. Well, sir, the whole body was covered over as far as I could see.

Q. Anything about the body? A. The body and head, I think, sir.

Q. Face? A. Yes, sir, face, too.

By the CHIEF JUSTICE.

Q. You may go on and state all about it without being asked. A. I got to this house, some hundred yards beyond where they were. I went down in a hollow and they were up on the hill. They were whipping another colored man that they had taken first, and I got ——

Q. What is his name? A. His name is Ivison Warren. I walked within about forty or fifty steps of theparties to ascertain what they would do. By the time I got that distance they ceased whipping and they commenced questioning; asked him a great many questions which I do not recollect—the whole of them—but one of the main questions was if I intended to put some parties in court that had thrown down a house.

Q. They were asking you these questions, were they? A. They were asking the negro. He replied he didn't know. They asked if I was going to protect them. One of the boys replied, "as far as was right."

Q. Which one of the boys was that? A. Ivison,—the one that they were whipping. Then they asked them where were the arms that I had given them to protect themselves. The reply was that I had never given them any.

Q. You were then how far off? A. About forty or fifty steps.

Q. Did they know you were there? A. No, sir, I think not.

Q. This was a conversation you overheard? A. Yes, sir; I didn't make it known that I was there. "Well," says he, "d—n him, tell him we are going kill him,"—or that was about the amount of it, and then they made the negro pray for them, and then the crowd broke up.

By Mr. McCORKLE, [resuming.]

Q. Made him pray for them? A. Yes, sir, pray for them.

Q. State whether you examined the backs of the persons of these two colored men, after they had been whipped. A. I did.

Q. State their condition. A. The one that they had then, that they had just whipped—I don't think they whipped him very badly. He was perfectly naked when he came to me after they let him loose.

Q. Which one was that? A. Ivison Warren; he was not whipped very badly. His skin was cut some. Well, I went back to my house ——

By the CHIEF JUSTICE.

Q. How about the other one? A. I went back to my house and found the other one at my house.

Q. You mean "Jack?" A. Yes, sir, Jack Patillo. He was very badly beaten,—so much so that I went for a physician. I did not think he would live. In fact he was not able to sit up with the fright and the wounds, and he was suffering greatly. I went for Dr. Walker and he came and examined him and treated him.

By Mr McCORKLE [resuming].

Q. State how long he was disabled from labor? A. Well, I think it was near two weeks before he was able to do much.

Q. Can you form any idea of how many licks had been given him, from the character of the wounds on his back, and from what you witnessed? A. This man I never saw—they had beaten him before I got up to the cottage. I don't suppose he was whipped at all. He had been beaten with sticks or something; they did not whip him with hickories at all.

Q. You say he was very badly beaten? A. Very badly beaten. His head was cut very badly, and he was bleeding all over his face. The other man—I suppose they struck him fifteen or twenty licks, as well as I could judge.

Q. You say on his bare back? A. Yes, sir.

Q. I understood you to say you heard this disguised crowd say that they intended to shoot you? A. Intend to kill me.

Q. Will you state why you did not make yourself known to the crowd?

Mr. GRAHAM. Let him state only what occurred. His reasoning on the subject is a matter of no importance.

By the CHIEF JUSTICE.

Q. You had your gun there, standing off from the crowd in the dark? A. Yes, sir.

Q. Thirty or forty yards? A. Yes, sir—forty or fifty yards.

Q. You did not go up to them? A. No sir.

Q. Nor make yourself known? A. No, sir.

The CHIEF JUSTICE. I do not think it is competent. It is a mere matter of inference.

Mr. McCORKLE. We do not press it at all.

By Mr. McCORKLE [resuming.]

Q. Did I understand you to say that a house had been pulled down? A. Yes, sir; about a month previous to that the house this man Patillo lived in was thrown down by some parties, I do not know whom. I had raised it on Friday and Saturday, and that Saturday night it was thrown down and there was a gallows erected close by with six vines—grape vines—attached to it, and just a little off there were graves marked off, six graves with a rock at the head of each, as tombstones, and a notice stuck up, "No more buildings to "go up, or you will be dealt with by the K. K."

Q. Whom was that house intended for? A. This man Patillo.

Q. Whose land was it upon? A. My land.

Q. It was intended for him? A. Yes, sir, for him.

Q. How long before this whipping occurred did this building of the new house take place? A. About a month. It was in November.

Q. Then Patillo had got into the new house, had he? A. He moved into the new house on Thursday, and Saturday night he was whipped.

Q. I understood you to say that prior to putting up those buildings there had been other houses there and they had been

pulled down by seme persons, you do not know whom? A. No, that is the house I speak of.

Q. That was afterwards pulled down? A. Before the whipping. That is the house I was just speaking of.

Q. Will you state whether you ever saw any persons disguised, riding at night, or walking, other than those you have described? A. No others but those that night.

Q. Will you state how far you live from the line of the counties of Orange and Caswell? A. It is about six miles, I think—between five and six miles—from Caswell, and about a mile and a half, or probably two miles, from Orange.

Q. This whipping occurred in the county of Alamance? A. Yes, sir, in the county of Alamance.

Q. How far from the county of Orange? A. About a mile and a half or two miles, I suppose.

Q. Will you state what was the feeling existing between the two races in the county of Alamance, or especially that part of it where you reside, at the time you refer to, and up to the 7th of March, 1870? A. Well, I don't know that I I could give the general feeling, sir. With some men there was no feeling existing that was bad, and with others there was some feeling existing between the two races. I could not state what was the general feeling.

Q. You do not know, then, what the general feeling was? A. I do not.

Q. I will ask you if you knew any of the men who were engaged in this whipping? A. did not.

Q. I will ask you, if they had been from that neighborhood, whether you would have known it?

Mr. BRAGG. That is a matter of inference.

The CHIEF JUSTICE. He says he was not nearer than thirty or forty steps.

Mr. McCORKLE. But he heard their voices. I suppose I have the right to ask the witness whether he recognized the voices of any of the parties.

The CHIEF JUSTICE. He can answer that.

A. I was trying to ascertain whether I could recognize any voice, and I thought I did, but I would not be positive about it.

Q. Whose voice did you think that was?

Mr. GRAHAM. It is a mere matter of opinion. I do not think it is competent.

Mr. McCORKLE. It is his belief; that is all.

Mr. CHIEF JUSTICE. A man may judge by his eye, or by his hearing. If you think you can form an opinion satisfactory to yourself you may state it.

A. Well, sir, it made an impression at that time that it was John B. Murray, a near neighbor.

*Cross-Examination.*

By Mr. MERRIMON.

Q. What is the character of those negroes whipped? A. Well, sir, this man Patillo, I never heard anything laid against him. He lived with me twelve months previous to the whipping, and the family that raised him said there was nothing against him in this county.

Q. What of Warren? A. There were some charges against him, sir.

Q. What? A. Well, when he left his master ——

The CHIEF JUSTICE. You must speak of his general character.

Mr. McCORKLE. Don't state particular acts.

Mr. Manager SPARROW. You did not speak of the general character of Jack Patillo.

The WITNESS. The general character of Patillo—there was nothing against him; that is all.

Q. Do you think it was good? A. I think so.

Q. Do you know it? A. I can only say what I think.

Q. Have you heard that he was a man of good character—from what different people say about him? A. I could not say, sir.

Q. You are not qualified to speak only from what you have heard from people who knew the general character of this

man? A. I dont know that I knew what was expressed, ( where he came from—Caswell.

Q. Have you heard people there talk about him? I l heard some speak of the man.

Q. That is not general character. What do people gene say of him?

Mr. SMITH. We submit that is not evidence of chara

Q. Do you say his general character was good? A. I c not say, sir, only from what I could gather ——

Q. You cannot say that you knew his general character? No, sir.

Q. What were these men whipped for? What was it all that they were whipped for? A. I do not know.

The CHIEF JUSTICE. Who do you mean alleged?

Mr. MERRIMON. I mean the men that whipped hin

Q. [By the Chief Justice.] What did they say they whipping him for that night? A. I never heard, sir.

Q. You do not know? A. No, sir, I did not learn.

Q. I understood you to say that the general charact Warren was not good? A. Well, sir,—just like the oth cannot say that I can state what his general character either.

Q. State whether or not at any time you pulled down c men's houses? A. I never did.

Q. State whether you pulled down the house of Jerry A. I never did.

Q. Who did? A. Well, I dont know, only what I told me.

Q. You had no hand in it? A. Nothing in the worl

Q. Didn't advise it or procure it? A. No, sir.

Q. Did not know of it? A. Some parties told me would do it.

Q. Did you tell them to do it? A. I told them they do as they pleased.

Q. Was Jerry Lee a colored man? A. Yes, sir.

Q. Do you belong to any secret political organization? A. None at all.

Q. The Union League? A. No, sir.

Q. The "Heroes of America"? A. No, sir.

*Re-Direct Examination.*

By Mr. McCorkle.

Q. Go on and tell us all about that Lee matter? A. Well, in 1867 or 1868 I had a man by the name of Jerry Lee come to work for me. He was there but a short time. I could not get him to work. I refused to let him have any provisions because he would not work.

Q. [By Mr. Sparrow]. A black man, or white man? A. A black man. Well, he remained a month after he stopped working, and I told him he must pay me house rent. He reported me to the bureau. We went up and had our trial, and he was in my debt.

Mr. MERRIMON. This evidence is immaterial here, Mr. Chief Justice.

Mr. McCORKLE. It is material in this point of view. We want to show that there were more outrages. We had not heard of this.

Q. You say the house was torn down? A. Yes, sir.

Q. What year? A. 1867 or 1868—I am not positive which year.

Q. You have been asked by Judge Merrimon if you belonged to the Union League or the Heroes of America. I will ask how you have heretofore voted. What has been your politics? A. I have voted the conservative ticket heretofore: I don't take any part in politics, or but very little.

Q. I will ask you whether there have been any prosecutions in Alamance county for either of the outrages that you refer to, or the tearing down the house of Jerry Lee? A. None at all—yes, in the Jerry Lee matter—I was brought up—I was arrested on that point, and some other parties.

Q. That was brought up; but for the other two outrages, tearing down houses and whipping, these parties have never

been brought up? A. Nobody has been brought up ing has been done with it.

By Mr. MERRIMON.

Q. Why didn't you do it? A. Well, sir, I did not create a disturbance. My motto was to remain peacea quiet, if possible. I had been advised by friends to do I took the advice.

Q. Not to say anything about it? A. Oh, no, I about it.

WILLIAM F. SIMPSON, *a witness called on be the respondent, being duly sworn, testified as follows:*

By Mr. MCCORKLE.

Q. Will you state your name? A. William F. Sim

Q. Your age and residence? A. I was born in 18 13th day of March. I was born and raised in A county, and have been living there ever since till fr March the 16th to about the first days of September.

Q. Go on and state whether you have ever seen any riding at night disguised, and under what circumstanc I never seen none riding, sir. I saw some come to m though, about last November was twelve months a before our last superior court was twelve months ago. it was about the last days of November.

Q. November, 1869? A. Yes, sir. They came t Saturday night. There was no person there except my two little children. My wife was gone from h was after ten o'clock at night, and they made a fuss an me up, and I don't think I answered the first time that the fuss; but about the second time I heard it I answe got up immediately and opened the door.

Q. I will ask you, here, where did you hear the fu door? A. It was at the north door, but I was so nig I could't tell which door they were at till I got up and it. I got up and opened the one nearest that was to n

was the south door, and when I opened the door I didn't see nobody. I just stepped out.

Q. State what you had on your person? A. I had nothing on but my shirt and drawers. I just stepped around the corner ——.

Q. What kind of weather was it?

The CHIEF JUSTICE. Let him go on and tell all about it.

A. It was clear. I stepped around the corner, like, to my left hand, two or three steps from the corner, I reckon, and just about the time I got around so that I could see the north part of the house, they came around both sides of the house at the same time and ran right up to me and caught hold of me, one by each arm.

Q. State how they were dressed? A. Well, sir, they had on a white coat that came about half way down the legs and buttoned up here to the throat. Their faces and heads were covered up, striped about the face; looked like tags and masks and so forth.

Q. Any horns? A. There were tags—looked like they had been fixed up with little tags, red and white.

The CHIEF JUSTICE. Go on and state all that was said and done. A. In a few moments—it was only a moment or two—they got hold of me by each arm, and had my arms stretched out so, [illustrating,] and hold of my shoulder and and wrist. The largest man—I always called him "that big one"—he motioned to go and started out; there were some persimmon trees in the field, just out of the yard a little bit, and they started towards those persimmon trees. The ground was sown with wheat, and it was very spongy. I said, "Gen-"tlemen, don't go out there; that ground is wet." He turned and came right down the road; kept down the road to where there was an inclosure; went down through the brush where there had been some little undergrowth cut down—down to a quarter of a mile from the house, and led me up to a black jack

tree, the two that had hold of my arms. I says to the
"Gentlemen why do you treat me in this kind of styl
Q. You have not told whether there were more
there. How many were there? A. There were ab
of them.

Q. [By Mr. Merrimon.] When? A. That night.

Q. What year? A. November, 1869, I think, a
before our court. I says to them, says I, "Why will
"men in this kind of style?" Says I, "I haven't stole
"I am no roguish man and I am no man that touches
"if they let me alone." That biggest one says "Y
"the habit of drinking and cursing and abusing a certai
"Well," says I, "I will admit that I say more at ele
"than is necessary," and says I, "I aint alone, excuse
I. Says he, "What are you doing with that old nigge
"land." "Well," says I, "he was without a hom
"put a pitiful mouth to me and I let him mo
"house." He says, "You must put him away." I
"will try." He says, "You must not say you will
"must say you will in ten days." And then he
shirt out of my drawers and stuck it up under my c
they whispered around a little, around the tree and
struck me about ——.

Q. Had you been tied? A. Yes, sir. I had been
tree was about large enough for my arms to reach
that way [illustrating with his arms]. They whispe
and struck me about fifteen or twenty licks. I in
holler when they commenced whipping me. I att
do so and he caught me around my face here and ma
blister on my lip, and said, "You must not holler, si
he had struck me fifteen or twenty licks, one of then
hold of my arm and tied me, says "Give him about
"more," [the witness here spoke in a nasal tone
but he only struck me four or five more.

Q. Then they gave you some twenty-five lashes?
sir, I suppose it was about that. I suppose it was al

or twenty—and may have been twenty before that, and he says, "Give him about twenty-five more," and he struck me four or five.

By the CHIEF JUSTICE.

Q. Do you mean to say that is the tone of voice he talked in? A. Yes, sir; I told him, "If you will talk with me in your "proper voice maybe I can answer you."

Q. Go on and state the rest? A. That is all I know about it.

Q. You say he spoke in an unnatural voice? A. Yes, sir, they came and poked their faces around my face and said "ha! ha! ha!" [in a flat tone.]

Q. You say they informed you that you had been talking too much about a certain party? A. Yes, sir, they said I had been in the habit of drinking, cursing and abusing a certain party.

Q. I will ask you what party you belong to? A. I was raised a democrat, my father was one before me and I was so until the surrender when I was led to believe that the best way to do, and I was advised so, to vote the republican ticket and I did so. I voted it independently and above board.

Q. State whether you were injured by this scourging that these men gave you? A. I was injured in several places, they brought the blood out of my back—whipped me with a hickory withe and the next morning I went down there and found splinters an inch or an inch and a half long sticking into the bark of that tree, where I was.

Q. Did you state what kind of a tree it was? A. It was a black jack.

Q. State whether any splinters were taken out of your body or not? A. No, sir, there were none sticking into my skin that I know of, but there was blood came out of my skin and considerable welts in it.

Q. Who were these parties? A. I cannot say. I could not identify them, there was nothing but starlight.

Q. You say they were all disguised alike with these white

gowns on? A. No, sir, there were two that I could see by lool back over my shoulder, were not dressed like these, but t were all dressed in that manner except these two, they l behind me. If I saw them at all I had to look back over shoulder.

Q. Will you state whether there has ever been any pro tion in Alamance county for this outrage on you? A. No,

Q. There has been none at all? A. No, sir.

Q. You say, they told you that one of the reasons for w ping you, besides your talking about a certain party, was you had permitted a negro to live on your land? A. Yes

Q. How long did you say they told you you should ha drive him off? A. Ten days.

Q. What did you say to that? A. I told them that I w try, and they said, I must not say "I would try;" I then "gentlemen, you know many a time a person takes peopl "his land, a certain limit of time for them to stay, and "that time is out, you are apt to have trouble to get sh "them."

Q. State to the court how long you had leased to hin land? A. Till new years; he did leave, but he didn't lea ten days. I told him next morning, said I, "Jim, I want "to leave here," and told him the nature of the case and treatment I had.

Q. You say that in consequence of the manner in which had been treated and the threats that these men gave you had to get that boy to leave? A. Yes, sir, and I told several days before he left. They told me, "If you whi "this, we will 'put you up;'" but I did whimper it dow court publicly.

Q. They told you that if you whimpered it they would "you up?" A. Yes, sir, "put me up" was the word.

Q. What was the name of that colored man? A. He u belong to old John Shaw, and then Morton bought him.

Q. What was his name? A. They sometimes call him Shaw and sometimes Jim Morton.

Q. State whether you had to dispose of your property there—your land? A. Yes, sir, it was sold for revenue taxes.

Q. You left the neighborhood? A. Yes, sir.

Q. When did you leave the neighborhood? A. I left that place the 16th day of last March.

Q. Where were you during the war? A. I was at home until in August, I think, in 1864, and I was gone then down in Randolph, Moore and Montgomery, I think, about forty days; left I think, about the 15th day of August and come home, and the 25th day of October, I started to Greensboro', and was gone from then, and went from there then down to camp Davis, below Wilmington.

Q. You were in the army? A. Yes, sir, and I had six brothers in, and every one of them was a good soldier too,—besides me.

Q. The confederate army? A. Yes, sir, there was no run and no disguise about them.

Q. Did you state what part of the county you lived in? A. Well, it was about five miles from the Guilford and Rockingham and Caswell corner, in the north-west corner of Alamance county.

Q. You heard the testimony of Mr. Murray. How far do you live from him? A. Well, sir, I don't know that I know exactly where Mr. Murray lives. It is some fourteen or fifteen miles from where I live to Mr. Murray's. I know pretty well where it is.

*Cross-Examination.*

By Mr. Merrimon.

Q. What did they whip you for? A. Well, sir, I told it once; that is all I heard they had whipped me for.

Q. Did they say you had stolen something? A. No, sir, I told them, said I; "Why will you treat me this way? because," said I, "I am no roguish man."

Q. Why did you think they suspected you of stealing? A. Because I had heard them talk around there that they were going to whip all the negroes that stole anything.

Q. You were not a negro, were you? A. No, sir.

Q. And you had not stolen anything? A. No I had not.

Q. And therefore you told them that you had not stolen any thing? A. No, sir, I said, "I am no lying man nor roguish "man, and I am a man that don't touch anybody if they let me "alone."

Q. You have a good character in your neighborhood? A. I leave that for my neighbors to say.

Mr. McCORKLE. I object to the question.

Q. Did you have a still-house? A. Yes, sir, I did.

Q. On this land that was sold? A. Yes, sir.

Q. Did persons upon your land get drunk? A. No, sir, there were very few that got drunk; some did, though.

Q. Did they make a noise there—a great disturbance? A. No, sir, not much.

Q. There never was any row there? A. No, sir, not more than common where there is whiskey made; about as clear of it as anywhere where there is whiskey made and drank.

Q. Did you pay your tax to the government?

Mr. BOYDEN. I object to that question.

The WITNESS. Pay the revenue tax?

Q. Yes? A. Yes, sir, I did.

Q. Why did they sell the land? A. To pay the revenue tax.

Q. And why did they sell the land if you had paid the revenue tax? A. Didn't I say they sold it to pay the revenue tax. I reckon that is the end of it. It was paid in that way—

Q. What sort of a man was Jim Shaw? A. He was a black man.

Q. Was he a good man?

Mr. McCORKLE. I object to the question. They have a right to prove what his character is, but not to ask whether he is a good man.

Q. What was his reputation? A. I don't know what his general reputation was.

Q. You do not know in what esteem he was held by people

around there? A. Some said he was as nice a nigger as anybody, and some said he was a roguish nigger. That is all I know about it.

Q. Did you at any time conceal a man in your house by the name of Evans Morris? A. I never did, sir. I don't know of any man by that name,

Q. Did you conceal anybody against whom there was a *capias* running. A. Alfred Hazel was there one morning and he went up stairs ——

Mr. McCORKLE. I object to the question as incompetent.

Mr. MERRIMON. I submit that it is competent because it is sought to be made to appear that this man was whipped on account of his political affinities. We propose to show that he was a bad man, a man of bad reputation in many respects; and that among other things, there was a *capias* issuing against a notoriously bad man who was concealed in his house.

The CHIEF JUSTICE. What was the *capias* for?

Mr. MERRIMON. It was under an indictment found in court.

The WITNESS. He just went into the house of his own accord.

Q. Who did? A. Hazel. He came there on business—brought some empty barrels for me.

Q. What did he go upstairs for? A. To keep King from seeing him.

Q. Who was King? A. Irve King.

Q. Who was he? What was his office? A. He was an officer—I reckon he was constable.

Q. Did you tell King he was there? A. No, I did not.

Q. Did he ask you about it? A. Yes, he did. He asked me where he was. His wagon was there and his son. I told him he went around the house—that I did not know where he was; and I didn't.

*Re-Direct Examination.*

By Mr. McCorkle.

Q. You say this man against whom the sheriff had the

*capias* came to your house with his wagon? A. Yes, sir. He came there with his son and some empty barrels.

Q. You had no agency in concealing him? A. Not a bit. No, sir.

Q. How long did he remain in that house? A. Only a few minutes. He took his son and wagon and went away.

JOHN R. FONVIELLE, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BOYDEN.

Q. State your age, your residence and your business? A. I am sixty-four years of age. I live in the town of Graham, in the county of Alamance, and was the first man that ever lived there. My occupation has always, heretofore, been that of a shoemaker and a bootmaker. I have a farm which I carry on but I do not attend to that myself.

Q. Please state where you were on the night that Outlaw was hung in Graham, and all you know about the matter? A. I was at home on that night when these disguised men were there.

Q. Tell what you heard and what you saw? A. I will say, sir, that I was aroused about eleven or twelve o'clock by a very loud noise of talking and dogs barking. Do you wish me to give the reason I was aroused or heard at that time or just what I saw?

Q. [By the Chief Justice.] Go on and tell what you heard or saw? A. I want you to understand that when I speak I mean exactly what I say. As soon as I heard the noises I was aroused and I went to my door that was fronting where this noise appeared to be. It was very loud. The dogs commenced barking. I stood a few moments and I saw some object come in view, white with a little colored bottom. I stood a few moments and saw they increased, and I said to my wife, "Here's the Kuklux, if you want to see them, I expect from "what I have heard." They still increased. They came straight down East street from towards the North street until

they came to the south cross street leading on in the rear. I heard but one distinct voice. I could understand it was very much nosed and disguised. They said "File right down there." They came on and filed in, following the road that went by my front door toward East Main street. I suppose they were carrying on what I would call a sort of raid. I could not count them but I staid until they entirely went by my door. There were between seventy-five and a hundred, none walking and all in disguise and on horses. I then, after they went out of sight thought I would go up town and see if I could see what they were doing. My wife said I had better not, perhaps there might be danger, I said, "I am not afraid," she said, "but I am afraid," I said, "they will not hurt you." I was in my night dress but I put on my pants and a blanket and a hat and boots and went up. When I got up to the main East street turning to the left, on which has been a large hotel which Parson Long occupies now, I saw him standing on the piazza. I advances a few steps further, and I came to where Mr. Jacob Long was, and Joseph Clendenen and a man by the name of William Staley were opposite Mr. James Hunter's piazza. Mr. Hunter was standing on the piazza. I spoke to them, and said where are they now? He said they are beyond the court house, southwest from where we were, and we could not see them. I staid there some ten or fifteen minutes. It was perfectly silent. In about fifteen minutes I saw them from where they came around south of the court house, or rather southwest, and when they came around we saw them coming on the street towards us, until they came to the main street. They came right single file right about to where we were in the centre of the street, and I then counted thirty-six. They then went on in perfect silence, and after a little whoop disappeared towards the east. Then after a little while Jacob Long said perhaps they have put up some notice where they were. I said, "Well, Jake, let us go and see." He said "I don't want to, they might come round." I said, "I am not afraid, let us go and if they do come we will cut

back." I started and went directly to the west street tc
court house and when I got to the court house, the north
I stood awhile and listened, but I could hear nothing at al
then advanced across the part of the public street to a va
lot where had been a circus and the ring remained there a
went to see if I could see any notice. I know I saw the
for I saw my tracks there the next morning. I went roun
see if I could see any notice in the ring or any where on
place, then my attention was called to some planking of
Williamson's and I looked very minutely to see if I coul
anything white in the way of a notice. Then my attention
directed to the nearest tree, which was an elm tree, about th
or forty feet off. I viewed it very minutely and I saw n
ing on it or around it any way. I viewed it on the west
of the tree and when I came opposite I viewed it there a
went by and viewed it from the other side, and I saw nothin
it. It was as clear as could be. I then went back to where
gentlemen were standing, and after talking a little while
we proposed to go home. Mr. James Hunter went insi
his piazza and Mr. Jacob Long and William Staley we
their room door and William Glendenen and Parson
went in the gate to their piazza, and I went home to my
and laid down and went to sleep. The next morning I g
very early, as I commonly do, and after building up a fir
drawing some water (I have to attend to such things, as I
nobody but myself and wife,) I went to the postoffice, and
I was waiting there for my mail. There was a man by the
of Andrews came in and said the Kuklux have hung Wyat
law. I said, "No, sir, that is impossible;" he said, "yes
hung from the limb of a tree by Robert Hanna's store."
I would not believe it until I could see it. I went, p
right by my own house, until I got to Mr. Hunter's, w
was the night before, and Mr. Hunter said, "they have
"Wyatt." I said, "I can't believe it." He said, "You
"is." I did not believe it until I got there. I had got n
in my hand and I tapped his foot and he was stiff and pe

dead. He was hung by a piece of old bed cord—about two feet of rope, and his feet were about that high from the ground (indicating about two and a half feet.)

Q. Was there anything on him? A. Yes, sir, there was a notice on him, "Warning to all guilty, both white and black." I think those were the words. I am pretty confident.

Q. Was there anything else on him? A. No, sir, nothing. His arms were tied in this manner, (indicating tied back by the elbows.)

Q. How long did he hang? A. I cannot tell how long he had been hanging.

Q. I mean how long afterwards? A. They went for the coroner, and when he came he was cut down. I saw him taken down.

Q. Tell us, as well as you can, how many persons you saw present there that night when you were there? A. Jacob Long, William Long, William Staley, Joseph Clendenen James Hunter and myself.

Q. You think there were about seventy-five or a hundred men in that party? A. I am pretty confident there were.

Q. At a certain time you saw them go by, you counted how many? A. I counted distinctly thirty-six, about half of the number I saw go back before.

Q. You have described where you heard the noise up street, did you know where Outlaw's house was? A. I know exactly where every house in the place is.

Q. Tell us how the noise was, as compared with his house? A. The noise, with a little variation from the north would bring it directly across to where he lives, by taking the street.

Q. I want to know whether, from what you heard, the noise was at his house? A. I know it was not, at the time I heard it, it was nearer to me.

Q. Was it in that direction? A. Yes, sir, I told you it was.

Q. Further than his house? A. No, sir, nearer than his house.

Q. Do you know where Henry Holt lives? A. I distinctly know where he lives.

Q. Did he live near Outlaw? A. No, sir, not near Outlaw. He lives nearer than Outlaw some three hundred yards from where he lives across. He lives about a hundred and fifty yards from where I live.

Q. Is it the same direction in which Outlaw lives? A. No, sir, Outlaw's, from where I live, is a little north of the west. Holt lives exactly north from where I live.

Q. Partly in that direction? A. No, sir, Wyatt lived a little north of west, and Holt lives exactly north.

Q. What did you see as to tracks? A. I saw a good many horse tracks there in this ring where I suppose they were and where I have no doubt they were.

Q. Did you go to see outlaw's house at all? A. I did not go to the house until they had laid him out and shrouded him.

Q. What did you see? A. Nothing but his body, shrouded, and some people.

Q. Did you see any tracks there? A. I did not notice any tracks.

Q. Did you notice whether there was any injury to his house? A. No, sir, I did not.

Q. What was the appearance around where he was hung as to tracks? A. There was some horse tracks, but there were a good many men's tracks too, and there was the appearance of where somebody had got up the tree. There was red dirt on the tree. It was wet at the time.

Q. State whether you heard any guns fired that night? A. I don't recollect of one; there was none fired after I was aroused from sleep that I know of.

Q. State to the court whether you knew any of these men that were disguised? A. I did not.

Q. You could not recognize any of them? A. No, sir.

Q. Tell a little more particularly how they were disguised? A. They had on a gown that covered the head and face and

body and a great part of their horse or mule, or whatever they were riding.

Q. What sort of a rope was it with which he was hung? A. I think it was an old rope. It looked like a piece of bed cord.

Q. What was the length of it? A. There was some wrapped around the limb, and there was about two feet of rope from the limb to his neck. It was wrapped three times round the limb, they had made it fast and it was about two feet from the limb to the neck.

Q. Were you there when the coroner's inquest was held? A. I was, I was summoned on the jury but after knowing that I was up in the night and saw them pass they relersed me from the jury and made me a witness.

Q. I want you to state whether there was any marks of violence on the body save about the neck? A. I did not examine the body, for I was not on the jury.

Q. He was not examined in your presence? A. No, sir, they only let one witness in at a time in the room. I did not see the jury examine the body.

Q. I think you stated the color of the disguises? A. Yes, sir, it was a white kind of garb covering the head and coming down and hanging over the horse and mule. I saw that distinctly.

Q. Did you at any other time, within the last two years, see anybody riding disguised? A. I did not.

Q. That is the only time? A. That is the only time I saw any.

Q. Do you know of any other person being injured—that is, have you seen the body of a person with marks of whipping upon it? A. I never did

Q. I ask you whether Outlaw was at one time, a year or so before this, a commissioner of the town of Graham? A. Yes, sir, he served with me.

Q. What year was that as well as you can recollect? A. I cannot say as to the date, but I think about one year before this happened.

Q. What was the color of Outlaw? A. He was a da ginger cake colored mulatto.

Q. Do you know what political party he belonged to? . He said he belonged to the republican party. He alwa professed to.

Q Was he looked upon as a leader among them? A. Y sir, I understood he was the president or leader.

Q. Of the republican party? A. Of the colored people.

*Cross-Examination.*

By Mr. MERRIMON.

Q. You examined the tree with some care that night? Yes, sir.

Q. Was that the tree upon which you found him hung next morning? A. Yes, sir.

Q. So that you are prepared to swear he was not on tree? A. I am not able to swear he was not, but I did see him if he was there. I said when I was on my exami tion before that I didn't see him, and I did not believe he there. I do not believe he was there, now.

Q. Did these disguised men leave town before that? Yes, sir.

Q. If he had been hanging to that tree could you have s him? A. I think I could. I can see in the night time aln as well as in the day time. I have travelled two or three h dred miles this year 'possum hunting, and can see a small sum on a high tree further than I was from this tree.

Q. Was it starlight? A. No, sir, it was cloudy, but I c see a 'possum and point it out quicker than the young col man who was with me.

Q. It is a very distinct impression on your mind that he not hanging on the tree when you saw it? A. don't bel he was.

Q. These men had left town? A. they had entirely town.

Q. You examined all about the tree? A. I examined t sides of it. I examined it on the west, I examined it in t

and I examined it as I went by looking back, which would have brought him if he was hanging directly between me and the body of the tree on the south side of the court house.

Q. What was the character of Outlaw? A. His general character do you mean?

Q. Yes, sir? A. He was one of the most polite niggers you ever saw in your life. His deportment was quite gentlemanly. He bore a pretty fair character.

Q. You say he was president of what? A. He was president of what was called the Union Leagues so he toldme.

Q. He told you he was president of the Union League? A. Yes, sir.

Q. Did you see any armed men about the town last summer? A. Yes, sir, I saw many.

Q. Did you see Kirk and his men? A. I saw them there.

Q. What class of men were they? A. A great many of them were dissipated and very illiterate.

Q. What sort of discipline did they have? A. I don't think they had any at all. They all commanded and none obeyed.

Q. None obeyed? A. Not much.

Q. What was their deportment about town? A. Not very good. I must say that they treated me with respect, perhaps because I had a great deal of fruit, and I gave them some when they wanted it.

Q. You live in the town? A. I was the first man that ever lived there.

Q. Were the courts regularly open in that county? A. I do not attend court much; I always kept pretty clear from the court for fear I would get caught on a jury.

Q. What was the state of feeling in your neighborhood between the whites and blacks? A. At what time?

Q. Along for the past two years? A. I think it was mixed a little with wormwood and gall.

Q. You think it is not good? A. Not very good.

Q. What was the matter? A. Owing to the circumstances of these parties.

Q. The parties don't like one another? A. No, sir, t do not like one another very well.

Q. State whether the colored people are employed by white people, working their land, &c. A. Yes, sir, I emp some to work mine.

Q. People generally do that? A. Yes, sir, generally.

Q. Do they have business transactions with each other? Yes, sir, they have transactions with one another.

*Re-Direct Examination.*

By Mr. Boyden.

Q. I understand you to say that you think the feeling mixed with wormwood and gall? A. I meant by that there was a little bitter feeling.

Q. Has there been any prosecution of parties on accou the murder of Outlaw? A. There never has been any to knowledge.

*Re-Cross Examination.*

By Mr. Merrimon.

Q. Were you before the jury of inquest? A. Yes, sir.

Q. Were you before the grand jury afterwards? A. I you that I was summoned on the jury, but when they fou knew something about the disguised men being there released me and took me for a witness.

Q. Did you go before the grand jury after then? No,

HENRY HOLT, (colored) *a witness called on behalf o respondent, being duly sworn, testified as follows:*

By Mr. McCorkle.

Q. State where you live? A. Graham. I was bred born in Caswell—the lower edge of Caswell.

Q. How old are you? A. I cannot tell you exactly somewhere between 40 and 50.

Q. State where you lived at the time of the hanging of Outlaw? A. I was living there in Graham, I reckon. not know how far from Wyatt Outlaw's, but some 800 o yards; it may be further.

Q. Where were you that night? A. I was at home.

Q. State what you saw. A. They broke in there. I was lying down. I went home early, and I lay down and went to sleep. I was in a sort of snooze on the bed. I had laid down there a while when my wife called me to come to bed. I reckon it was about 11 o'clock. I got up and was sitting by the fire when I heard this fuss about horses or something or other. I was sitting talking with my sister, and I said to my wife, "What is that fuss," she said, "I don't know." I went to the door, and I heard a lick struck over on his house.

Q. Whose house? A. Outlaw's.

Q. What sort of a lick? A. Just as you would strike a door down with an axe or something of that kind. I saw a light directly in front of his house. It was dark. I stepped right out and started to go up there. My wife said, "Don't you go too far." I said, "Never you mind." I went on and left her standing at the door. I got up to the shop where I used to work on the street not far, about half way to his house, and I heard two men talking on the outside along the palings in the street—two of them standing there, I reckon. I could not see them. One of them said, "Come on, come on; pshaw! let us go," and they started. I could not see them. I was standing listening. Just after that the light went out, and the crowd started off from the house.

Q. From whose house? A. Outlaw's house. I could not see anything. I just walked along and started down the street toward the court house and then I heard a parcel come right towards me. I stopped right still and looked down and I saw something in white. I said to myself just so, "Halloo these is the Kukluxes I reckon." I just dropped over into Mr. Hardin's lot. I thought they would meet me and I was sort of scared. They kept down the main street and went around to my house. I did not know where they went until after then, but I heard a fuss like they broke down the door and I got scared and stayed right still and listened. They made a terrible fuss like they were stamping all

over the house. After a while the fuss ceased and t
light went out and they left. Then I slipped across t
street over to the house where I worked for squire Har
and I woke him up and told him what I had heard a
he jumped up and his wife and children—the grown one
and we all stood there and listened. After a while, some
or fifteen minutes, three men rode down, two dressed in bl
and one in white. I was looking through the window.
heard nothing more for about three quarters of an hou
reckon it may be a little longer, when I heard some hallo
and making a noise and singing—I could not tell what it
They came right down the same street to my house. Th
was eighteen of them. I heard Mrs. Hardin say she cou
them herself.

Q. State whether they were riding or walking? A. T
were riding. They were all dressed in white as far as I c
tell except one of the crowd who was dressed in black. T
all rode single file right down the street. They went ar
by Squire Albright's and I heard them hallooing around th
I never heard anything more of them that night. I d
know where they went to, and did not go home until the
morning. I went home and found the door broke, they
me that it was ——

[Objected to.]

Q. You found the door broken down? A. Yes, sir.

Q. Did you find a bed cord taken from your bedstead?
Yes, sir.

Q. What sort of a bed-cord? A. It was a cord abou
size of your little finger, it may be not quite so large.

Q. Did you see Wyatt Outlaw the next morning?
saw him at a distance. I did not go to him.

Q. Did you go near enough to look at the bed cord?
No, sir, I have never seen it.

Q. How much of your bed-cord was taken from your
A. I reckon two or three feet, I did not pay particul
tention.

Q. Was it an old cord? A. It was an old cord that had been used for a good while—a right smart while.

Q. They took about three feet? A. I think about that was cut off, but may be a little more or a little less. I do not know exactly but that is as far as I can tell you.

Q. You have not told us how these persons were dressed who were going to Wyatt Outlaw's? A. I did not see them go towards his house. They were coming from his house when I saw them.

Q. They were all disguised with the exception of one? A. When the crowd first went to my house I could not tell whether there was any one in black or not, but I say most of them were in white. I do not know how many there were in the crowd, because I was too far off.

Q. There was one in black as they went on back to Outlaw's? A. They were coming from that way when I saw these last three.

Q. Where were they going to, towards the court house or how? A. I do not know whether they were going to the court house or not. I could not tell from where I was.

Q. What was the position of the person dressed in black? did he seem to be a leader? A. No, sir. I could not tell whether he was a leader or not.

Q. Was he in the middle of the crowd? A. Something near the middle. I don't know exactly. He was not in the front, I know.

Q. How many were there in the crowd you saw? A. At first?

Q. Yes, sir. A. I suppose there were about twenty-five or thirty in the crowd. I should think there was as many as that.

Q. Did you state how far you lived from Outlaw's house? A. I told you three or four hundred yards.

Q. How far was it from Outlaw's house up to the court house? A. I don't know; it was a little further than where I am. It was not much difference from the court house to his house.

Q. Three hundred yards? A. Fully that, I can't exactly tell; I sort of guess at it.

Q. Did you go to Outlaw's house in the morning? A. I did the next morning.

Q. Were there any tracks around the house? A. No, sir, I did not notice; I went just as it was getting sort of light to see what was to pay up there.

Q. What did you see? A. I found the door broken. They had broken two doors. The one where his children were lying they broke first.

Q. Describe the house with reference to the front doors? A. Both front doors were broken. There is no door on the backside except one room where his mother slept. They broke her door open next. He had opened his door I suppose, for it was not broken.

Q. [By Mr. Manager Sparrow.] You did not see what took place? A. It was all broken. The first one they broke was where the children were that was mighty near knocked to pieces.

Q. The front door? A. The front door. Both front doors were broken open.

Q. Who was in the house at Outlaw's? A. His mother was in there and a lady. I don't know who it was. She had been there some two or three weeks; and his children were there.

Q. State whether you had ever seen these disguised persons before? A. Yes, sir, I saw them before.

Q. Where? A. Some twelve months before he was hung they were there.

Q. Where? A. At Graham.

Q. State how they were disguised? A. Yes, sir, they were. I think the crowd was all dressed in white, because I was close to some as I am to this gentleman here, as they passed along the street.

Q. Were there many in that crowd? A. I don't know. There was a good large crowd—at least fifty I should think.

Q. They were walking? A. A part of them were walking, they walked right close by me.

Q. What time in the night was this? A. That was I reckon about twelve o'clock at night.

Q. State what they did on that occasion? A. That night they shot into Eli Outlaw's ——

Q. [By Mr. Merrimon.] Do you know that? A. I saw the holes the next morning, and I saw one bullet that he picked up on the floor.

Q. State whether you heard any guns that night? A. Of course I heard them.

Q. How many? A. I cannot tell how many there were. They fired two rounds I know.

Q. The whole crowd? A. Yes, sir, I reckon it was the whole crowd. I was not close to them, but I heard some, because they shot at me three times.

Q. How do you know they shot at you? A. Because I was close to them and saw them.

Q. Did they see you? A. I think they did, or else they wouldn't do that. I was squatting down behind the palings just so, [illustrating.] They went past me as they came up right by where I was sitting, and looked over in that way [illustrating] and shot at me—three of them. One of the bullets went through the plank, the other struck and glanced, and I don't know where the other one went. It went through a crack I reckon.

Q. You say you saw the mark of the bullets in the house at Eli Outlaw's? A. Yes, sir.

Q. Where were they—in what part of the house? A. The house is planked up, straight up and down. They shot right through the plank—there were three or four holes, and one of the bullets dropped on the floor.

Q. State whether they were in range of any bedsteads or any thing of that sort? A. No, sir, they shot in this way [indicating] and the bed was on that side. I do not think it went across the bed.

Q. Had you seen these disguised men on any other occasion than these that you have referred to? A. No, sir, that night was the first time that I ever saw them and I did not see them any more until the last time they come.

Q. Have you seen them since that time? A. No, sir.

Q. Do you know of your own knowledge of any person being whipped in that county? A. I have heard——

Mr. BRAGG. We object to hearsay testimony.

Q. Have you seen any person who had been whipped? A. No, sir, I have not.

Q. I mean have you seen any marks on them? A. I have not seen any marks on them.

*Cross-Examination.*

By Mr. MERRIMON.

Q. Do you belong to the "Union League?" A. I do not know. I used to belong to it but I don't belong to it now that I know of.

Q. Have you quit? A. No, sir, it is broke up.

Q. What kind of a concern was it? A. It was a league; that is all I can tell you about it?

Q. What was the object of the league? A. I do not know; it was to sort of to instruct colored people that never knew anything, that is what it was for—that is what was said.

Q. To instruct them? A. Yes, sir, learn them something; to know how to talk, or something of that sort.

Q. A debating society? A. It was not called a debating society; it was called a league.

Q. What did you do in the meetings of the league? A. We just went there and we talked a little; made speeches on one question and another.

Q. What about? A. I do not know as I can tell exactly what about.

Q. Did you take any obligation? A. No, sir.

Q. I mean did you swear to do anything? A. Oh, yes; it was to get up a little treasury and have a little bank, and we tried to send some men here to the convention and they wanted

some money. Mr. Outlaw was the man who started it to try to build a school house and have a church. That is about the amount of it, I reckon.

Q. What did you swear to do? A. That we should be true to this, to stand up to this and to stand to it like men.

Q. What in? A. Our league.

Q. What was your league—give me some account of it? A. I do not know, they said it was the United States League.

Q. You do not know what it was? A. They said it was started for that.

Q. Did you do what the leagues told you to do? A. I tried to do what was right, they did not tell me to do anything bad. We paid twenty-five cents a month, and any man that come in was bound to pay twenty-five cents a month.

Q. Were you bound to do what the leagues determined you ought to do? A. If I said so I was.

Q. But suppose the league said so, were you not? A. I was bound to or not join.

Q. You were bound to do what they said? A. They said it was just to make up a little money.

*Re-Direct Examination.*

By Mr. McCorkle.

Q. Can you read? A. No, sir; I am no learned man.

Senator JONES. Before the witness leaves the stand I would like to have the question put to him as to the time this band made their appearance the last time at his house.

*Re-Cross Examination.*

By Mr. Merrimon.

Q. What time did that band of disguised men appear at your house the last time? A. I cannot tell you exactly.

The CHIEF JUSTICE. I understand it was before Outlaw was hung.

Mr. GRAHAM. It was twelve months before the first time they came.

Witness. Yes, sir.

Q. [By the Chief Justice.] On the night that Outlaw was

hung, what time did you hear any noise at Outlaw's house? Well, I cannot tell, but then I think myself, from the time t train came up—I was asleep when it came—I think it was abo midnight when I heard them.

Q. Had they been to Outlaw's house before they went yours? A. Yes, sir; they went there first.

Q. How long before? A. I don't know how long they h been there. When I woke up they were there. I think was about midnight.

Q. How long from the time you first heard them at Outla house before they went to your house? A. Well, it was half an hour—about a quarter, I reckon, from the time I f heard them till they were around there.

Q. Did you see any persons about the town that you kn that night? A. No, sir.

Q. Did you see Mr. Fonvielle? A. No, sir.

Q. You cannot say what time of night it was that you these men at Outlaw's, or heard the noise? A. I think it close upon midnight, I am pretty certain.

Q. Are you sure of that? A. No, sir, I am not sure o but that is as nigh as I can tell you.

Q. Did you see these men any more after they went to house? A. Yes, sir.

Q. Where? A. I saw them coming down the street.

Q. What time of night was that? A. The first crow reckon, rode by the house about twenty minutes to three; I heard nothing more of them till the crowd—about eighte came by.

Q. What time was that? A. About one o'clock in night, then, I think.

Q. Were they leaving town, then? A. No, sir, they not leaving then. They went around from there to Mr. Albright's.

Q. They didn't go back towards the court house? A sir, not as I know of they didn't. I never heard any going on any more, further than that.

*Re-Direct Examination.*

By Mr. McCorkle.

Q. You say you belonged to the Union League? A. Yes, sir, I joined it.

Q. I understood you to say in reply to a question of Judge Merrimon that no oath that you took required you to violate the law; is that so? A.——

Mr. MERRIMON. I did not ask him that question.

Q. Were you required to do anything that was against the law? A. No, sir, they didn't require me to do anything against the law if I knew it.

By the Chief Justice.

Q. State what you were required to do besides paying twenty-five cents a month in this league—were you required to attend the meetings? A. Yes, sir, we were required to attend them, of course.

Q. How about the voting? A. I voted the republican ticket.

Q. Were you required to vote that ticket by the league? A. Yes, sir.

By Mr. McCorkle, [resuming.]

Q. You also stated that you had not belonged to it for some time? A. Yes, sir.

Q. I ask you whether it is kept up now? A. No, sir.

Q. It is not kept up? A. No, sir, not with us.

Q. How long since it ceased to be kept up? A. It has been about twelve months.

ELI OUTLAW, (colored), *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCorkle.

Q. State your name, age and residence? A. My name is Eli Outlaw. I do not know my age. I live in Graham.

Q. How long have you been living there? A. I suppose some twelve years.

Q. Go on and state whether you ever saw any persons dis-

guised, and if so, when, and where, and all about it? A. Well, sir, I have never seen them but once, and I didn't have a fair sight at them then. It was in my house on the night that they shot in there. I saw them passing through the crack of the door.

Q. When was that? A. That is about two years ago.

Q. That was, then, in 1869 sometime? A. Yes, sir.

Q. How many were there? A. I cannot say—a pretty smart crowd, but I didn't count them.

Q. Describe them; how were they dressed? A. They were disguised in white.

Q. How? Just on their heads, or where? A. From what I could see, I thought it came from about the neck down. They were on horses. The gowns hung as low as the persons' feet.

Q. State how their faces were? A. I could not state about that.

Q. How far were you from them? A. I was in my house and they were all around it.

Q. How many do you suppose were around the house? A. I declare, sir, I don't have any idea how many they were.

Q. Were there more than two? A. Oh yes, sir, there were more than two.

Q. Give some idea. A. Well, I suppose from the racket and stir that there was no less than fifteen or twenty around the house.

Q. Tell what they did. A. They shot into my house and kept up a terrible fuss around it, beating and lamming—in fact, pulled off one of the boards and they shot through that place.

Q. One of the boards from where? A. Off the backside of the house.

Q. And you say they fired through there? A. Yes, sir. I found three holes that came through. The others lodged, and did not get through. One of the balls I picked up out of the floor the next morning.

Q. How many did you have in your family? A. My wife and two children at that time.

Q. State whether their position in the house at the time of the shooting in was such that they were endangered by it, or not? A. Well, they were in bed when the shooting was done, and the balls did not go across the bed. After the shooting ceased I got up and left the house—after they left there.

Q. Where did you go to? A. I went over in the field a short distance from the house, and there I lay all night—the balance of the night,

Q. Who went with you? A. My wife and children.

Q. Then you left your house, did you? A. I finally left it that night.

Q. Whom did you leave in the house to take care of it? A. No person at all.

Q. What was the season of the year? A. I think it was either the last of February or the first of March.

Q. What was the state of the weather? A. It was a very cloudy night.

Q. Was it very warm weather? A. No, sir, it was tolerably cool that night.

Q. State what you carried with you to keep you comfortable. A. I carried only two quilts.

Q. How far did you go from the house? A. I suppose one hundred and fifty yards.

Q. State whether it was in a field, or woods, or where? A. In a field.

Q. How long do you say you staid there? A. Well, I staid from the time they came until day. I suppose it was—well, it was early in the night when they aroused me, and they did not come around the house only a short time till they left, and when they left I left.

Q. Where were you the night of Wyatt Outlaw's hanging? A. I was in the mountain working on the public railroad.

Q. You do not know anything about that at all? A. No, sir, I do not know anything about that at all.

Q. Do you know of any other outrage, of your own kn edge? A. I do not, sir.

Q. State whether you have ever seen any persons in county disguised? A. I have not, sir, since.

Q. This is the only time? A. That is the only time.

Q. Have you ever seen any before this time? A. No,

Q. Did you hear any remarks they made at the time t were around your house? A. Any speeches that they ma

Q. Anything they said? A. No, sir, only the one w when they first came up and commenced beating and knoc around. They said, "Rally out, G—d d—n you, rally out just so.

Q. Whom were they talking to? A. I don't know that

Q. You did "rally out" at the back door afterwards? I "rallied out" after they left.

*Cross-Examination.*

By Mr. Merrimon.

Q. What did they shoot in that house for? A. I d know.

Q. You had done nothing to them? A. Nothing in world.

Q. Did they charge you with shooting at them? A. sir, not as I know of.

Q. Do you belong to the League? A. I do not, sir.

Q. Did you ever belong to it? A. I did not.

Q. What is your politics? A. Well, I don't have n politics at all.

Q. How old are you? A. I don't know.

Q. Don't know whether you are old enough to vote, or A. I have voted.

Q. What side did you vote on? A. The republican

Q. Never belonged to the Leagues? A. Never.

Q. Don't know anything about it? A. No, sir.

Q. Did you see any of Mr. Kirk's men up there at town? A. I did.

Q. Did you see them shoot at the children of Mr. Holt? A. I did not.

Q. What did they do? A. It was supposed ——

Q. Did you see any shooting done? A. I did not.

Q. Did you hear anything? A. I did.

Q. Where? A. Down in the pasture.

Q. Whose pasture? A. It was Mr. Albright's field I suppose.

Q. Children there? A. No, sir, not as I know of.

Q. Don't know anything about it? A. Don't know where the children were.

DONALDSON WORTH, (colored) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCorkle.

Q. Where do you reside? A. Cane Creek.

Q. What county? A. Alamance—the dividing line between Alamance and Chatham—right on the line.

Q. How far from the Moore county line? A. Oh, sir, the Moore county line is some thirty miles.

Q. How far from the Orange county line? A. The Orange county line is some twenty-five miles, I guess.

Q. State whether you have ever seen any persons disguised?

Mr. MERRIMON. Please wait till I ask a preliminary question.

By Mr. Merrimon.

Q. Which county do you live in—Alamance or Chatham? A. I live right on the line.

Q. Which side of the line? A. I live in Chatham, on the line.

Q. Which do you live in—Chatham? A. I live in Chatham, that is, my house is there, but my work is in Alamance.

By Mr. McCorkle [resuming].

Q. State whether you ever saw any disguised persons in Alamance county, when it was and where it was, and all

about it, and what they did to you. A. No, sir, not in Alamance county. I saw them in Chatham county.

Mr. Manager SPARROW. Never mind about Chatham.

Q. Where did the parties come from? A. They came out of Alamance county.

Q. [By Mr. Merrimon.] How do you know? A. Well, sir, it was supposed they came from there.

Q. Did you know any of them? A. I could not say I did positively know them in the way and conditions that they were fixed.

Q. Could you tell from their voices who they were? A. Well, I was too nigh scared to death to tell much of any thing.

Q. Give the best impression to the court as to who was there.

Mr. MERRIMON. He must say that he has got some impression before he gives it. He has not yet shown that he has.

The CHIEF JUSTICE. He must have formed an opinion that you could rely upon.

Q. Give the best impression you have, if you have any, as to where these men came from and who they were.

Q. [By Mr. Merrimon.] State if you know where they came from? A. No, sir.

Mr. MERRIMON. The evidence is clearly incompetent then.

Mr. SMITH. A man can give his best impressions.

The CHIEF JUSTICE [to the witness.] You can state from what direction they came.

Mr. MERRIMON. My friend says the witness can give his impression. He cannot give his impression in all cases. He must first lay some ground for the impression he has and after he has shown the grounds, then he may say, from the ground stated what his best impression is.

The CHIEF JUSTICE. There is no doubt about that. I thought the counsel were observing the rule.

Mr. MERRIMON. There is no ground for the impression yet laid.

Mr. McCORKLE. The witness states that he lives right on the line. I propose simply to ask him the question, if he knew where these parties came from or if he knew any of them, and what his impression was.

Mr. GRAHAM. He has answered that he does not know.

Mr. McCORKLE. I will ask him again.

Q. You say that your house is where? A. It is in Chatham.

Q. How far from the dividing line? A. About a quarter.

Q. Where do you work? A. Well, sir, I work part of the time in Alamance county and part of the time in Chatham. The dividing line between Alamance and Chatham runs right through the plantation—the county line runs right through the field.

Q. I understood you to say you had seen some disguised men. Now I want to know if you have any impression or any opinion as to who those men were, and where they were from?

The CHIEF JUSTICE. As to who they were in the first place.

A. Well, sir, I could not say who they were.

Mr. MERRIMON. The senate has ruled that it will not hear anything about these transactions outside of Alamance and Caswell counties.

The CHIEF JUSTICE. The counsel wants to know if from their voices the witness could say who they were.

Mr. MERRIMON. But, sir, suppose he could do that; it will not prove an outrage in Alamance.

The CHIEF JUSTICE. Unless he proves that the men came from Alamance.

Mr. MERRIMON. He does not prove that, sir.

The CHIEF JUSTICE. It is shown that it took place within a quarter of a mile of the line.

Mr. MERRIMON. We want to raise the question now as

to how far the previous ruling of the senate goes.

The CHIEF JUSTICE. Let us see whether the witness can establish the facts necessary to raise the question.

By the CHIEF JUSTICE.

Q. How far from the county line did you see these men? A. About a quarter of a mile, sir.

Q. Do you know which direction they were coming from? A. They were coming from towards Alamance county—out from the line, from towards Alamance county.

Q. Did you hear them talk? A. Yes, sir. I didn't hear them talk till they had taken me out of my house.

Q. Did you form any impression that you could rely on as to who the men were?

Mr. MERRIMON. May I ask a question?

The CHIEF JUSTICE. Certainly.

Q. [By Mr. Merrimon.] How do you know they came from towards Alamance? A. I told you I did not know; it was supposed that they came from that way, because they came from that course. That is the reason why.

By the CHIEF JUSTICE [resuming].

Q. Answer this question. Can you form an idea from the sound of their voices who they were? A. Well, sir, I formed an idea, that is, after they had taken me out—at the time they had me in hand I formed an idea.

Q. What? A. To know them personally I didn't, but had an idea who they were.

By Mr. McCORKLE, [resuming.]

Q. Give that idea?

Mr. MERRIMON. He has not laid the foundation for stating an impression.

The CHIEF JUSTICE. The presiding officer does not think the foundation has been laid.

Q. Did you hear the sound of the voices? A. Yes, sir, I did when they took me out.

Q. How long were you with them? A. They had me out some hour and a half, I reckon.

Q. Did you hear them talk much? A. Yes, sir, they talked, but they talked point blank like a parcel of geese. It is hard understanding what a parcel of geese say.

Q. You say they remained an hour and a half with you. Could you state, from your knowledge of what they said, whether you can say that you have an opinion as to who any of them are?

The CHIEF JUSTICE. I do not think he has qualified himself to say that. He said they spoke in a disguised tone of voice.

Mr. McCORKLE. I propose to ask him whether, after having been out with them about an hour and a half, they disguising their voices as they did,—he can form an opinion as to who any of them—not all of them but any one or more of them—were.

By the CHIEF JUSTICE.

Q. Can you form an opinion now that can be relied upon as to that? A. I don't think I can.

Q. Which way did they go after they were done with you? A. They left my house and went out to the northeast towards Mr. Zachary's.

Q. Which direction was that? Into Chatham further? A. Out of Chatham into Alamance.

Q. They came from that direction and went back in that direction? A. They came from that direction and went back in that course.

By Mr. MERRIMON.

Q. How do you know they came from that direction? A. Of course, sir, I saw when they broke the door. They came up to the house—I knew they came from the county line. They bursted open the door and I saw them on the north side of the house.

Q. You did not see them till they broke the door open, did you? A. No, sir, I did not, but they came——

Q. How did you know they came from that way? A. Their horses tracks were along the road the next morning.

Q. Which way? A. They came from the county line s
ame towards my house.

Q. How do you know that? A. I know by the horses track
y measuring the tracks of the horses. I measured the tracks, s
y measuring the tracks I found out that they came from t
irection. And what made me measure, it was to see whet
he tracks would correspond with the tracks on the other s
f the county line. The tracks did correspond. Whet
hose be the same horses or not—I couldn't be conscious of t
ut they came from that course, certainly.

By Mr. McCorkle, [resuming.]

B. You say then that the tracks came from towards
ounty line? A. They came from towards the county line

Q. You saw them go back that night on that road?
Certainly I did, sir.

Q. And you found the tracks inside of the county line?
Inside of the county line.

Q. I ask you if there was any road from your house d
o the county line except this main road that they trave
A. No, sir, only the public, big road, without going a
plantations or out through the woods.

Mr. McCORKLE. I suppose we may be allowed t
him what they did say.

Mr. MERRIMON. We raise this objection, Mr. C
Justice. We say this matter was ouside the counties of
well and Alamance, and that the act was committed i
county of Chatham.

Mr. SMITH. Mr. Chief Justice, if this agency, thi
hive of mischief within the county of Alamance should c
mine to include other counties outside of it, does it not as
warrant the issuing of a proclamation placing the count
state of insurrection if the parties sally out of that count
are traced, as if they had committed their outrages in it?

Mr. MERRIMON. Mr. Chief Justice, suppose an o
ized band of men in the county of Wake should determ
perpetrate their outrages in the county of Guilford, and

ɔuld perfect their arrangements, and go to Guilford nightly
d perpetrate ourages there, and they become so outrageous
ıt the civil authorities cannot control them, I submit whether
ıt would warrant the governor in proclaiming the county of
ake in a state of insurrection? That, sir, is the principle,
ıen we come to analyze the matter. They undertake to show
ıt there was an organized body of men in the county of Ala-
ınce for the purpose of perpetrating crime, and that that
dy of men went to the county of Chatham and there perpe-
ıted crime. By what authority shall the governor, if a crime
perpetrated in Chatham, proclaim the county of Alamance
insurrection. He must show insurrection in Alamance, and
fact that an outrage was perpetrated in Chatham, does not
ıd to prove anything of the kind. It is, therefore, not per-
ent to the issue, and hence not competent to be received in
dence.

Mr. McCORKLE. The question is pertinent to the issue
ıed. In determining the question the first point of inquiry
hat are the allegations? They are that the respondent,
ıout any just cause, when the citizens of Alamance county
in a state of peace and quiet, and order reigned, and with
position to oppress the citizens of that county and to
te the constitution of the laws of the state, declared it in a
of insurrection. Then suppose here are hundreds of citi-
of this county who only do commit crimes therein,
o to the borders or near the lines at different points
l the county and over it, will it be pretended that this
vould not be a competent answer to that part of the alle-
that these citizens were not law-abiding, but that they
set of assassins traveling about the country and perpe-
their acts of violence upon unoffending citizens? We
competent in that point of view. Suppose I could
has been described by my colleague, that Alamance
as a bee hive of mischief, with its swarms inflicting
the neighboring people, and had even perpetrated
hin a few yards, as was the case here, beyond the

county line, would that not be some excuse for the gover pursuing the course he did?

Mr. GRAHAM. Mr. Chief Justice and Senators, this i question of identification. The matter now before the cour as to how far the fact that certain men have been perceiv coming from the direction of the county of Alamance indica that they were citizens of that county. They might be citiz of any other county. That is the only fact that we have h now that these men came from the direction of Alamance, a that they returned in the direction of Alamance. Sir, if t was some individual's house, some spot inhabited by a parti lar family, to which these persons were traced, the fact mi have some, and even then a very remote, bearing upon question; but when we know that the county of Alama is some 20 miles square, and that persons come across the veyor's line on some part of 20 miles on one side of that cou and go back over it, it affords no evidence in the world that were citizens of that county.

Mr. BOYDEN. Mr. Chief Justice and Senators, I thi can illustrate the matter so that there can be no doubt a the proof offered being evidence. How much it will be w after it is admitted is another consideration. Suppose it alleged that at a house over the line a theft was committed that a piece of meat was stolen. Suppose they find the t of the man and measure it in Chatham and trace that t over the line in the direction of and near to a house in mance, and raise the suspicion that the man who lives in house in Alamance is the thief; I submit that the fact w be some evidence to go to a jury as to the guilt of the suspected. How is it in this case? men are seen coming the direction of Alamance and are seen going there an tracked beyond the line of Chatham into Alamance. Ca lawyer doubt the competency of that evidence as being sible to go to the jury for whatever it is worth?

Mr. McCORKLE. Mr. Chief Justice, we say if h evidence is to be believed that there was a crime commit

the county of Alamance; why do we say that? Because, if this witness is to be believed, three men came from the direction of Alamance and afterwards returned to that county, there being no byways or roads on either side by which these parties could have gone into any other county than Alamance. Then, what they did in Alamance leaving out of consideration any thing they did in Chatham county constituted an unlawful assembly. They went at that time disguised, and going disguised was made an indictable offence in the state of North Carolina. It made no difference whether they consummated any outrage or cowardly attack on the witness here or not. They had already violated the law by reason of being masked in the county of Alamance. They were likewise guilty of a rout. They were a lawless assembly even if they did nothing.

The CHIEF JUSTICE. The presiding officer decides, as a matter of fact, that these men came out of Alamance and returned to that county. So the question is presented: Men go from Alamance into the edge of Chatham and commit an outrage. Can this be given in evidence as a circumstance tending to sustain the allegation of an organization in Alamance? The presiding officer decides that the evidence is admissible. This does not fall under the ruling in reference to organizations in Guilford—without connecting them with Alamance as the place where the conspiracy was formed.

By Mr. McCorkle [resuming.]

Q. Will you go on and state how many there were in that party? A. Five men.

Q. What did they have on? A. They had white disguises or white shrouds that came over the face and down to the knee. Around the mouth was bound with red flannel and around the nose there was red flannel all around. It was just as if a man was shrouded and laid out to be put away.

Q. What time of the night was that? A. It was about midnight.

Q. What time was this? A. It was the last Saturday night in January a year ago.

Q. The last Saturday of January 1870? A. Yes, sir.

Q. Was your house shut up? A. Yes, sir.

Q. What did they do? A. They bursted the door open and took me out of bed and ordered me to rise; I jumped up; they caught hold of me and slipped a rope around my neck and told me they were going to take me out to hang me; I begged of him, "Please gentlemen not hang me" I said, "I "was not fitted to die." They ordered me to shut my mouth and struck me on the side of the head with a cane and carried me down to a big poplar tree and told me to get down on my knees and pray. I was then scared to death and begged them not to hang me. He says, "You must not call us gentlemen "at all," I said "I will call you just what you say I must call "you." He said "You must call us Mr. Kuklux that is our "name—that is the name you should call us," I said "I will "call you any name you wish me to." Then they quarrelled as to what they should do, whether they should hang me or whip me and decided they would whip me and not hang me. They took me down to a poplar tree and pulled me with a rope. I thought they were going to hang me, I had no doubt about it. They tied the rope a little tight so that I could not hollow and then they struck me twenty-five licks—five me struck me five lick a piece with a leather strap and then turned me loose, or untied me from the tree and led me up on the hill.

Q. Towards your house or from your house? A. From my house into the skirt of the wood. They carried me in a field and made me get on my knees, and put a sword against my breast and gave me the law and told me what the law was—their law, that whenever I met a white person, no matter who he was, whether he was poor or rich, I was to take off my hat and put it under my arm. I told them that I had always done that. The next thing was that if I met a lady passing, I had to walk on the opposite side of the road and not to walk so as to meet her. I told him that I would try to do it, that I would follow the law that they had laid down for me to follow. They

then turned me loose and I went on to my house; they told me that they whipped me because they had been informed that I had arms to kill the Kuklux with. I told them that it was only a mistake, that I had none; that I had never owned a gun —only an old holster pistol. They demanded the pistol and I gave them the pistol. They said that they understood I had got bowie knives.

Q. Did you give them the pistol or did they go and get it? A. They went and got it while they had me in the wood. I told them that I had not got any bowie knives; I told them that I had some knives that my master in his life time let me have. I used to keep his knives and spaying needles and he gave them to me. They took them and carried them off with the pistols. They told me that I must obey this law, because it was their constitution, and I told them that I would do it.

Q. They said it was a part of their constitution? A. They said that that was their constitution and I had to abide by it.

Q. What did they say they whipped you for? A. They said I had been saucy to white people, and I had accumulated arms to kill the Kuklux.

Q. Nothing else? A. Nothing else.

Q. Did you ever see them on any other occasion? A. No, sir, that was the first time I ever saw them.

Q. What clothing did you have on at the time they whipped you? A. My shirt and drawers.

Q. [By Mr. Merrimon.] Do you belong to the league? A. I have belonged to it.

JONATHAN ZACHARY, *a witness called on behalf of the respondent, having duly affirmed, testified as follows:*

By Mr. McCorkle.

Q. State to the court your age and residence? A. I will be seventy-six years old on the 28th of April. I was born in 1795, if I count right. I reside in Alamance, on Cane creek.

Q. State whether you ever saw any person disguised and if so at what time and all about it? A. On the last Saturday in

January—I call it Saturday, it was early Sunday morning, there were six men came in disguise to my house. It was about one o'clock in the morning.

Q. [By Mr. Merrimon.] Last January? A. A year ago, I recollect the hour also, because I went to the clock to see what time it was.

Q. What sort of disguises did they have on? A. They had on white, figured off with some kind of red stuff, I do not know whether it was flannel or what it was, but they had flannel for lips, red as they ought to have in good health, and red about the eyes. They had on white gowns about that length, [indicating down near the feet,] some was not quite so long, and some came down to near the ankle.

Q. Were they riding or walking? A. They were riding. My wife first discovered them. We were lying in bed. She saw them through the back window. They rode to the fence and hitched their horses, and came to the east end of the house. It was a cold night, and I poked up the fire and threw on some chunks. I had never seen any of them, and I wanted to see them, and I told them to come in; and they unlatched the door the same as I would have done.

Q. By the Chief Justice. How many? A. there were six.

Q. What did they do? A. They did not attempt to injure me at all, they asked me what that was, that it was the prettiest think they ever saw, pointing to the clock.

Q. You say that this was the last Saturday in January? A. Yes, sir, it was one o'clock when they arrived. I looked at to see because they looked at it.

Q. How far does Donaldson Worth live from you? A. He lives on old Governor Worth's plantation, where he lived when he was a slave. He lives in the same place, about a mile and a half.

Q. From you? A. Yes, sir, but not in a straight direction. He lives further up the creek.

Q. Will you state whether this was the night that they visited him when you understood he was whipped? A. That was

the same night. They came from that direction because my son tracked the horses as far as the county line and further to the fording of the creek.

Q. They tracked him in that direction to the county line?

A. Yes, sir, the county line runs on the north side of the creek on my plantation.

Q. Did you know any of them? A. Yes, sir, I did.

Q. Who were they? A. One was John Duke and another was Matthew Hopkins.

Q. Where did they live? A. John Duke lived within a mile of me and Matttew Hopkins hires about sometimes living near me and sometimes at other places.

Q. Do they live in Alamance county? A. Yes, sir.

Q. Did you see Donaldson Worth the day or two afterwards? A. I saw him not long afterwards, I cannot say whether it was a day or two or not.

Q. Did he say anything about being whipped? A. He told me the circumstances——

Mr. MERRIMON. We object to the question.

Mr. McCORKLE. We offer it in confirmation of the statement of Donaldson Worth.

Mr. GRAHAM. We think, Mr. Chief Justice, that the evidence is not admissible, that it has not been shown that the interview of the witness with these parties was the same evening when Worth was whipped.

Mr. BOYDEN. I think we have a right to corroborate Worth and that very question has already been decided.

Mr. MERRIMON. I never knew of evidence offered to corroborate unless a witness were impeached. We offered no evidence to impeach him. We only asked him the one question as to whether he belonged to the Union League.

Mr. BOYDEN. I would like to know with what purpose that question was asked unless it was to impeach him.

Mr. GRAHAM. This is not to confirm but it is to eke out. They cannot prove by the other witness anything except a mere suspicion that these men came from Alamance

and it is sought by this witness to eke out that evidence an prove that they were citizens of Alamance county. Wort was not examined as to what time it was in January, as t the week day or month and the design is to give a convers tion that this witness had with Worth without any evidenc to show that Worth's statement to the witness correspond with the date when this witness says these men visited hin If it were designed to connect this evidence together ther ought to have been some distinct interrogatory to Worth a to what time it was, what day of the week or of the mont or sometime else which would have enabled the court to sa that one was connected with the other.

Mr. BOYDEN. Mr. Chief Justice, I am suprised that th learnud counsel should have forgotten the testimony of th witness Worth. He stated distinctly that it was the last Sa urday night of January last, a year ago.

Mr. MERRIMON. We waive the objection.

Q. State what Worth told you? A. He told me that the had whipped him that night and put a rope around his nec and that they gave him twenty-five or thirty lashes.

Q. Did you hear his testimony here? A. Yes, sir, heard it.

Q. Did he tell you substantially the same story he to here? A. Yes sir just the same that he told here.

Q. Has there ever been a prosecution about this whippi that you know of? A. Not that I know of.

Q. You were never called before any body about it? Not that I know of.

Q. None of these men have ever been tried who are know to have been disguised? A. There were some men that we taken by Kirk's men.

Q. You have never been called upon to testify, and you not know that the matter has been before the courts? A. N sir.

*Re-Cross Examination.*

By Mr. GRAHAM:

Q. The courts have been regularly held in Chatham, have they not? A. Not regularly.

Q. The superior court in Chatham has not? A. No, sir, because there was some difficulty about it. The judge went home.

Q. Was not the court held in the spring of 1870? A. In the fall of 1870 the court was not held. This is 1871.

Q. You are speaking of Chatham or Alamance? A. Chatham.

Q. Was not the court held in the spring of 1870? A. No, sir, it was the spring, but not in the fall.

Q. Did not the judge come in the fall? A. Yes, sir.

Q. Then the court was held? A. There was no jury there.

Q. The judge was there? A. The judge dismissed the court.

Q. He didn't hold it as long as you think he ought? A. I do not know much about the business in Chatham. I have merely been told so. I do not know it of my own certain knowledge.

Q. Do you know anything of the prosecution of a state's warrant taken out in Chatham in regard to the whipping of this old man, Donaldson Worth? A. No, I do not.

Q. He made no complaint that you knew of? A. No, he told me he was going to submit.

Q. You do not know anything about a prosecution being instituted? A. No, sir.

*Re-Direct Examination.*

By Mr. Boyden:

Q. You say that Kirk's men had taken up some of these disguised parties? A. Some one. I heard it. I do not know it.

Q. Did he take up one or two that you knew? A. One of them went up voluntarily, the other took to the bushes.

*Re-Cross Examination.*

By Mr. Bragg:

Q. How do you know that? A. Because he kept out of the way and ran into Chatham county.

Q. How do you know that? A. I saw him go, and I saw him while he was there.

Q. You saw him where? A. He left his own county.

Q. Did you understand that—do you know of your own knowledge? A. It was general report, and I saw him going.

Q. You have been told not to state matters by report? A. I said I saw him going there.

Q. How do you know he was going there? A. Because he did go.

Q. How do you know that he went? A. I saw him in Chatham.

Q. Do you know how long he stayed there? A. I do not.

Q. Is that all you know about it? A. Yes, sir.

Q. Where did you see him? A. I cannot state the time.

Q. Where? A. It was in the road.

Q. What was he doing? A. Riding in the road.

Q. You saw him one day riding on the road to Chatham county? A. Yes, sir.

Q. That is all you know about it? A. That is all I know about it.

DONALDSON WORTH, (*colored,*) *being called on behalf of the respondent, testified as follows:*

By Mr. McCorkle.

Q. Have either of these men who perpetrated this outrage upon you been indicted or prosecuted? A. No, sir. I was told not to interfere with them, and I didn't do it.

Mr. GRAHAM. Do not tell what you were told.

Q. By whom? A. Mr. Hauley.

SAMUEL GARRISON, (*colored*) *a witness, called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCorkle.

Q. How old are you? A. I do not know my age.

Q. Where do you live? A. Alamance.

Q. How long have you been living there? A. I was born and born there.

Q. Go on and state whether you have ever seen any person disguised? A. Yes, sir. I have seen them disguised.

Q. How many? A. Five.

Q. When was that? A. In November.

Q. What year? A. The year before last.

Q. Go on and state how they were disguised? A. They had on white gowns coming away down about the knee, that come over their bodies and heads, and great long ears like a mule's ears, about that long (illustrating).

Q. What time did they come to your house? A. It was between 12 and 1 o'clock. They came and bursted open the door. I did not know they were there until they bursted open the door, and I jumped up. I was aiming to get out of the door, but they met me, and caught me, and struck me several licks on my head with a club, and from that they caught me, and threw me down and began to tie me and choke me. I told them not to choke me so hard. They tied me and took me a mile from home away down the creek in widdow Sally Faucett's field. They took me up the creek and made up a fire, and they started to tie me to a tree, a big Spanish oak, and did so, but I slipped the rope off my hand, and I started to run but there was a little sapling behind that caught me, and they caught me and bucked me down. They pulled my shirt out of the drawers, and they whipped me first on one side, and then on the other.

By the CHIEF JUSTICE.

Q. While you were lying down? A. Yes, sir, first on one side, and then on the other.

Q. I thought you said they tied you to a tree? A. They did first off, and then when I tried to get away they tied me down and bucked me.

By. Mr. MCCORKLE, [resuming.]

Q. Have you any idea how many lashes they gave you? A. No, sir, I have not.

Q. What did they whip you with? A. Hickories.

Q. How many were engaged in whipping you? A. About three of them whipped me I think.

Q. How long were they whipping you? A. I cannot tell you exactly how long.

Q. What reason did they assign for whipping you? A. They never told me.

Q. How long were you laid up through the whipping they gave you? A. About two weeks.

Q. What was the nature of the whipping, severe or light? A. Severe. They cut my skin badly. The wounds are on me now.

Q. The marks are on you yet? A. Yes, sir.

Q. Did you know any of these persons? A. I knew two of them. One was John Rich Ireland, and the other was Ass Isley.

Q. State whether they were indicted for this outrage on you? A. Yes, sir, I went to Yanceyville on account of it.

Q. But this was in Alamance? A. Yes, sir, I went to Yanceyville, and then came down to Company Shops on account of it.

Q. You went to the military there? A. Yes, sir.

Q. But were these men indicted in the courts of Alamance county at Graham? A. No, sir, I have never been to Graham about it.

Q. Why did you not go to Graham? A. I went down there, but the troops were at the Shops, and they told me to go to them.

Q. But you say you were whipped in November 1869, and it was several months before the troops came there.

Mr. GRAHAM. The troops were there early in March.

Mr. McCORKLE. Those were federal troops.

Q. You went to Graham to have them indicted in court? A. No, sir, I went there to see about it; it was pretty near year after I was whipped.

Q. Why did you not go to Graham to have them indicted? A. I was afraid to go.

Q. You were afraid?

Mr. GRAHAM. Mr. Chief Justice, we think this is not competent. The law gives its protection to everybody in this country and it is no excuse to a man that he was afraid. It is very well settled in this state that any man in any community who has been injured, as this man says he was, need not be afraid if he desires to seek the condemnation and punishment of those who have committed an outrage upon his rights. He may go and make a complaint to any lawyer in this state, or before any responsible magistrate, and he can get a warrant for redress. This attempt to excuse delay is not tolerated in law at all.

Mr. McCORKLE. Mr. Chief Justice, the suggestion is remarkable. Here is a set of men embracing hundreds of the citizens of a county who are banded together to commit crime and intimidate a large portion of the people of the country, and counsel gravely suggest that it is a contempt of court for a witness to say that he will not apply to that kind of people for redress. To have done so would have asked for bread and got a stone. Had he sought for legal redress he might well have feared another whipping at the hands of the men he prosecuted. That was one of the very reasons why the county was declared in a state of insurrection. The people were intimidated by the violence committed upon many of the citizen and they dared not go to the courts. The witness states that he was afraid to apply to the law for redress and it is shown by numerous others besides this that they were told if they went before the court that they would go up.

Mr. GRAHAM. It is in evidence that commissioners of the peace, were to be found in every town in the county and that they were ready to perform their duties. It is proved that the peace officers of the county were mainly republicans belonging to the dominant party, and I say that the presumption of fact as well as of law is that when the offices are full, any man can obtain redress by applying for it. If he is afraid in one locality he can go to another; and if he is afraid in one county he can go to another county to a judge. The idea of

being afraid as a reason for delay in making an application for redress for twelve months is one unknown to the law.

Mr. BADGER. Mr. Chief Justice, the argument of the counsel of the managers who addressed the court would apply very well to a peaceful and intelligent white community and to intelligent white citizens, or even to a community of intelligent colored citizens, who knew their rights. But to attempt to apply any such rule to the case of a poor ignorant colored man like this witness, is farcical. Such was the condition of affairs that he dared not apply to the courts. I will say in addition that the allegation we make is, that such was the condition of affairs that men dared not apply for legal redress.

The CHIEF JUSTICE. The presiding officer thinks the evidence is competent as tending to prove one of the allegations in the answer, to wit: that the county was in such a condition that the people were afraid to apply to the magistrates, and that they dared not deal out justice. What state of proof will result from the evidence on both sides is a matter which cannot now be determined, and will be for the court hereafter to consider.

By Mr. McCORKLE, [resuming.]

Q. You say that the reason you did not go to the courts at Graham to prosecute these men was that you were afraid to do so? A. Yes, sir.

Q. Who were you afraid of? A. I was afraid some of these men might come back and prosecute me again.

Q. You mean whip you again? A. Yes, sir.

Q. That is the reason you did not prosecute them? A. Yes, sir.

Q. And that is the reason you didn't prosecute them? A. Yes, sir.

Q. Describe to the court about this bucking—how they did it? A. They squatted me down and tied my hands together and put my arms over my knees and put a stick through or between my legs and arms [illustrating.]

Q. You were then whipped? A. Yes, sir.

Q. I understood you te say that you were whipped on that side and then turned over and whipped on the other? A. Yes, sir.

Q. What part of the county do you live in? A. I live in Alamance county, I think it is some eight miles from Caswell this side.

Q. How far from Guilford? A. The nearest place in Guilford is five miles.

Q. How far from Orange? A. Some twenty miles I reckon.

Q. Did you state how far you were from Graham? A. Yes, sir, about six miles from Graham where I was living. I was living in Preacher Ireland's tan yard.

Q. Did you state what clothing you had on when they carried you off? A. I had only on a shirt, drawers and was barefooted and bareheaded.

Q. What sort of weather was it? A. It was a powerful cold night.

Q. How far did they carry you? A. About a mile from home.

Q. Who constituted your family—whom did you leave there? A. I didn't leave anybody. They left home when they took me off from them.

Q. How many were in your family? A. There was wife and four children—five children, one of them has died since.

Q. Where did they stay that night? A. When I came back I found they were gone from home—I went to a neighbor's house, a colored man's, and they were not there; then I went to another house—I went to Mr. Allred's—they had gone to his house. I went and got them and came back home, and then we were still afraid and we went and stayed at a laboring man's that night.

*Cross-Examination.*

By Mr. Merrimon.

Q. What did they whip you for? A. I don't know.

Q. Did they not charge you with stealing? A. They ( not.

Q. What were the names of the men you say you knew? Asa Isley and John Rich Ireland.

Q. Where did they live? A. John Rich Ireland lives cl by Haw river, and Asa Isley lives close to me.

Q. Who was the magistrate or justice of the peace in y( neighborhood? A. Asa Isely.

Q. Is he a justice of the peace? A. Yes, sir.

Q. Do you know what his politics is? A. No, sir.

Q. You don't know? A. No, sir.

Q. Don't you know that he is a republican? A. No, sir, is not a republican.

Q. Didn't he vote with the republican party? A. No, he did awhile, but he turned over.

Q. He voted on your side a while and then quit? A. ] sir.

Q. Which side was he voting when he whipped you? He voted on the other side when he whipped me.

Q. When did he whip you? A. It was the fifth Satu in November.

Q. Last November? A. Yes, sir.

Q. Last November a year ago? A. Yes, sir.

Q. Do you belong to the league? A. I joined it once went to the meeting once, but have not been there since.

Q. You don't know anything about them? A. No, si

Q. Did they swear you? A. No, sir.

*Re-Direct Examination:*

By Mr. McCorkle.

Q. You say that one man was a justice of the peace a time you were whipped? A. Yes, sir.

Q. Are you certain of that? A. Yes, sir.

Q. How far does this justice live from you? A. W half a mile of me.

Q. How far did John Rich Ireland live from you? Something over a mile.

Q. Is he an officer of that county? A. Yes, sir, an officer.

Q. Is he a deputy sheriff or constable. A. Yes, sir, I think he is.

Q. Then there were three others? A. Yes, sir, five of them.

Q. You don't know who the other three were? A. No, sir.

*Re-Cross-Examination.*

By Mr. MERRIMON.

Q. How did you happen to know these men? A. I knew Asa Isley, because he had two fingers off. He had no gloves on, and he whipped me, and cut hickories left handed.

Q. How did you know Ireland? A. By the gown floating over off his burnt year.

Q. He was a deputy sheriff then? A. Yes, sir, I think he was.

Q. You are sure he was? A. Yes, sir, I think so.

Q. Had you ever been whipped before that? A. No, sir.

Q. Never in your life? A. No, sir.

Q. [By the Chief Justice.] You have never been whipped since you were free? A. No, sir, I never was whipped for doing any crime.

Senator PRICE offered the following order:

ORDERED, That on and after Monday, the 27th instant, the court meet at eleven o'clock, and adjourn at half past one o'clock; and meet at three o'clock, and adjourn at five o'clock daily.

Senator Moore moved to lay the order on the table.

The CHIEF JUSTICE put the question on the motion of Senator Moore to lay the order on the table, and it was decided in the affirmative.

On motion of Senator Edwards, the court adjourned to meet on Monday, at 11 o'clock, A. M.

## TWENTY-FOURTH DAY.

SENATE CHAMBER, February 27th, 1871.

The COURT met at eleven o'clock, pursuant to adjournment, Hon. Richmond M. Pearson, Chief Justice of the Supreme Court, in the chair.

The proceedings opened by proclamation made in due form by the doorkeeper.

The CLERK proceeded to call the roll of senators when the following gentlemen were found to be present:

Messrs. Adams, Albright, Allen, Barnett, Battle, Beasley, Bellamy, Brogden, Cook, Cowles, Crowell, Currie, Dargan, Edwards, Eppes, Flemming, Flythe, Gilmer, Graham, of Alamance, Hawkins, Jones, Latham, Lehman, Linney, Love, Mauney, Merrimon, Moore, Norment, Olds, Robbins, of Davidson, Robbins, of Rowan, Skinner, Speed, Troy, Waddell, Warren, Whiteside and Worth—39.

Mr. McCORKLE. We desire to recall Andrew Murray, jr., a witness examined on Saturday.

Mr. GRAHAM. This witness has been examined and cross-examined fully, and we object to his re-examination on new matter. This is a very tedious inquiry at best. If the trial proceeds at this rate, there will be no end of it.

Mr. McCORKLE. That, Mr. Chief Justice, is purely a matter of discretion for the court. We desire to ask him but two questions that have a direct bearing upon the issue. We were not informed by the witness of the matter which we now propose inquiring into, until after the court had adjourned on Saturday. He then informed myself and others of a matter in respect to which he had forgotten to testify. Surely the counsel for the prosecution cannot be prejudiced by it. It is a matter wherein we have been guilty of no *laches*, for we were not aware of it until after his testimony was given.

Mr. GRAHAM. Mr. Chief Justice, this is a proposition

re-examine a witness who has been discharged, and after half a dozen other witnesses have been subsequently examined. If he is to be re-called now, we shall ask the privilege of calling back some witnesses who were called on behalf of the respondent, for we are now better prepared to cross-examine them than we were when they were upon the stand. If the re-examination of this witness is allowed, there will be no end of re-introducing witnesses.

The CHIEF JUSTICE. The presiding officer is of the opinion that according to the practice existing in the superior court, taking the statement of the counsel for the respondent as if upon affidavit—for the fact, I suppose is admitted—they were not apprised of this evidence until after the witness was examined on Saturday. The presiding officer thinks it competent to have the testimony subject, of course, to the sense of the senate. It is more a matter of discretion than of law.

Mr. Manager SPARROW. Mr. Chief Justice, I am requested to ask for the sense of the senate on this motion.

Senator ROBBINS, of Rowan. Mr. Chief Justice, I move that the examination of the witness be allowed.

The CHIEF JUSTICE. The question, I understand, is on a demand for the ayes and noes. Those who are in favor of the demand for the ayes and noes, will rise.

Not being a sufficient number seconding the call for the ayes and noes, they were not ordered.

Senator COWLES. There seems to have been some mistake. Some of the Senators misunderstood the proposition stated by the chief justice.

The CHIEF JUSTICE. The call is to be sustained by one-fifth of the senators present. The object in asking senators to rise was, to determine whether one-fifth demanded the ayes and noes.

Senator WARREN. I hope the call for the ayes and noes will be withdrawn. I give notice that I will vote to allow the counsel for the managers also to recall witness for re-examination.

The CHIEF JUSTICE. I understood that this evidence was not shown at the time, and that it was not a neglect.

Mr. Manager SPARROW. So far as the managers are concerned, we will withdraw the request for the ayes and noes.

ANDREW MURRAY, Jr., *a witness previously called on behalf of the respondent, and examined, being re-called, testified as follows:*

By Mr McCorkle:

Q. Mr. Murray, you stated on Saturday last as to the whippings of Patillo and some other persons upon your premises? A. Yes, sir.

Q. I will ask you if you received any written or verbal message from any one, begging you to leave your house thereafter, and if so, when it was, and all about it? A. I did receive a verbal notice.

Q. How long after this whipping? A. About two weeks—on Christmas day, 1869, late in the evening, Samuel Hughes, of Orange county, came to my house and advised me to leave home.

Mr. GRAHAM. I object to these declarations of Samuel Hughes to the witness.

The CHIEF JUSTICE. The presiding officer will hear the counsel in support of their right to prove the communication without connecting Hughes in some way with this matter,

Mr. McCORKLE. We expect to prove by the witness that Mr. Hughes was a personal friend of Mr. Murray's, and came to his house, through the rain, some twelve or fourteen miles, and communicated to him the fact that his safety demanded that he should leave home, and said at the time: "I have received this intelligence in such a way that I cannot communicate it to you." We expect to show that upon that advice being given to him, the witness did immediately leave.

The CHIEF JUSTICE. I think you may prove that in consequence of what he heard he left home, and how long he stayed from home, but you cannot show what was said to him.

Q. In consequence then of something that was said to you by somebody, did you leave home? A. I did.

Q. In consequence of what was said by Hughes you left home? A. Yes.

Q. Whom did you carry with you? A. My wife—the family consisted of a wife and two daughters. My daughters were not at home. There was no person but my wife at home, and she was so much shocked that I took her with me.

Q. She was very much frightened then, was she? A. Very much.

Q. What did you do? A. I left her at my sister's and I went to Alvis King's, some three or four miles at night. I received a notice about four or five o'clock at night, I suppose. I remained from home two days and nights. I then prepared myself—armed myself and went back home.

Q. State whether you informed the sheriff of Orange county of what had occurred and what he said to you? A. I did not—not of Orange county.

Q. I mean of Alamance? A. A few days after the whipping, I saw the sheriff.

Q. Give the name of the sheriff? A. Albert Murray.

Q. [Mr. Merrimon.] Give the time and place?

Q. Give the time and place where you saw him? A. There was a tournament at Moore's store. I told him of the difficulty——

Mr. GRAHAM. We object to any conversation between the witness and the sheriff. I do not see what it has to do with this case. If the witness was aggrieved, the law was open to him for protection.

Mr. McCORKLE. It is competent in this point of view to show that he appealed to one of the officers of the law for protection and asked his advice as to what should be done.

Mr. GRAHAM. It is not competent in that point of view. The sheriff is not the adviser of the people. This person had the power to go and make his application to a magistrate or to a judge and proceed in a legal way. A conversation with the

sheriff is no more than would have been a conversation with private individuals around him.

Mr. McCORKLE. What is the allegation in the answer of the respondent, Mr. Chief Justice? It is that the civil authorities were powerless in the county of Alamance to protect the citizens in the enjoyment of life and liberty. We propose now, in confirmation of that part of the answer, to show that the witness appealed to the sheriff of the county to know what to do, and that the sheriff promised to come down to his house and that he never did come.

Mr. GRAHAM. Well, sir, suppose he did not. It was not his business to come. It is not the business of the sheriff to advise in such a matter. This was not an application to the civil authority. The civil authority is the judicial authority the magistrates. The sheriff's business is to execute the law, not to interpret it.

The CHIEF JUSTICE. The presiding officer is of the opinion that the question cannot be asked as to what the sheriff said, he not being a proper officer to apply to for a warrant.

Mr. McCORKLE. Then we are through with the witness.

*Cross-Examination.*

By Mr. MERRIMON.

Q. You said the other day that you were a democrat? A. That I had heretofore voted that way, sir, up to the last election.

Q. Were you not a candidate upon the republican ticket at the last election? A. They put my name down.

Q. Didn't you vote that ticket? A. I split my ticket, sir. I voted for the best men.

Q. Were you elected by the republicans at the last election? A. Yes, sir.

Q. Why didn't you tell that the other day? A. I was not asked the question.

Q. Yes, sir, you were asked a question that embraced that very plainly. Why didn't you answer, it, sir? A. The question

I understood was this: what my politics had been heretofore.

Q. I asked you what your politics were? A. Heretofore; that was my aim, if I failed to do it.

Q. There was no heretofore about it. I asked you what your politics were; you said you were a democrat, and said nothing about your politics last summer. I ask you now the question whether or not the plan to destroy Jerry Lee's, house—the colored man—was not made at your house?

Mr. SMITH. Was not that the subject of the other examination?

Mr. MERRIMON. Yes, sir, but like yourself I am better posted now to examine the witness.

Mr. SMITH. We are made to conform to a very strict principle in the examination of our witnesses; and this is the subject-matter of the cross-examination of this witness on Saturday.

The CHIEF JUSTICE. The presiding officer does not see how the counsel can now go into details of the same subject again.

Mr. GRAHAM. We have more information upon the subject which we think will enable us to get more full answers to this question, than we had on Saturday. We make the interrogation in the same good faith with which the gentlemen made theirs.

Mr. MERRIMON. We want to impeach this witness, and desire to put him on his guard. We want to show that in his own house the plan was laid to destroy the house of this colored man Jerry Lee. If he denies it then it will be for us to show it by other evidence if we can.

Mr. SMITH. The objection we make is this, that we have not introduced the witness with a view to enter into a more full examination as to matters about which we examined him before and we suppose the senate will not allow that; they consider that we have exhausted the examination upon those topics. The witness was recalled this morning for another purpose, to bring in some other

information entirely outside and not a part of that previo examination. I suppose the only subject upon which he nc can be examined is that for which we have recalled him. C tainly they have not the right to interrogate him upon a su ject embraced in their first cross-examination.

Mr. MERRIMON. I trust the senate will be as liberal us as to the other side. We state that we are better prepar to cross-examine the witnes now on this matter than we th were. We can propound questions to the witness now whi we could not then ask. Our object is to impeach this witne and to show his complicity with the very transaction of whi he complains.

Senator DARGAN. Mr. Chief Justice, I move that t question be allowed.

The CHIEF JUSTICE. The presiding officer was abo to say that the testimony can come in by consent. It sho the inconvenience of departing from strict rules. You can a this question.

Q. State whether or not the plan to tear down that color man's house was made at your house, and who the parties wer A. Well, sir, I can state it. In 1867 or '8 I had a colored m by the name of Jerry Lee living on my place. He was th but a short time, and I could not get him to work. I refu to let him have any provisions on the ground that I saw was a worthless character and could not do any good.

Q. I did not ask you for that. I ask you if there was a agreement at your house to tear down the house. A. I w to state the whole matter.

Q. I don't care about the whole matter.

Mr. McCORKLE. The witness has a right to state it.

The CHIEF JUSTICE. I think the witness has a righ state anything pertinent to the question.

The WITNESS. I did not turn him off from labor for that he might report me to the military authorities. He mained about a month, and I asked him to pay me house r He refused to do so. I told him he must pay me house

or leave. On that he reported me to the bureau, and I was notified by the bureau to come before him. I did so and the matter was brought up before the bureau for settlement. He settled the matter with us.

Q. How? A. In our account it was shown that he was in my debt, and the bureau, in a very abrupt manner said, "Jerry "Lee you may go back and remain in that house as long as you "please."

Q. The bureau said that. A. I said that to Jerry Lee. That ended the matter then. Well there was a young man by the name of Levi Walker, and another named Alphonso Murray, who is now in Tennessee, he told me——

Q. At what place? A. I cannot recollect it. It might have been my shop. Young Walker lived with me as an apprentice then.

Q. Was it on your premises? A. Well I cannot say. I expect it was, and they told me——

Q. Told you what? A. That they went and scared the man and made him pull his own house down, so they said.

Q. What I want to get at is the conversation in which they said they did do it? A. Well I cannot recollect.

Q. You recollect everything else. I want you to recollect this. A. I can recollect the outlines.

Q. What arrangement did you and these men make about pulling that man's house down? A. Well these parties said, "We will scare him away."

Q. Where was that? A. I cannot tell you where now, I do not recollect

Q. Was that before or after it was done? A. Before.

Q. Did you ask them to scare him away? A. Well I don't know how the matter was brought up.

Q. Didn't you collude with these men—didn't you agree with them that they were to go and tear this man's house down? A. No, I didn't know that that was to be done.

Q. Well to scare him off? A. Yes, I did know.

Q. What means were agreed upon to scare him off? A. No particular means.

Q. You made no objection whatever? A. No, sir.

Q. Was anything said about whipping him? A. No, sir.

Q. Or firing off guns or anything of that sort? A No, sir.

Q. You first agreed that they should scare him off? A. Yes, sir.

Q. And no means were concluded upon by which they were to do it? A. None at all.

Q. But you and they did agree before pulling the house down that they should scare him off? A. Yes, sir.

Q. I ask you the question whether or not it was agreed that they should go and pull that old man's house down? A. No, sir, it was not.

Q. You swear to that squarely? A. Yes, sir, I do.

Q. The object was to get him off the land? A. Yes, sir.

Q. I put another question to you. I ask you whether or not you did not accompany these men to that house to pull it down? A. No, sir, I did not.

Q. You say that? A. Yes.

Q. Did you go any part of the way? A. No, sir.

Q. When was it? A. 1867 or '8.

Q. What time did they go. In the day or night? A. In the night—early in the night.

Q. How did you know they went in the night? Q. Well they left my house then.

Q. They left your house in the night? A. One of them did. He lived there with me. He told me he was going.

Q. Did he not tell you what he was going to do? A. No; the pulling of the house down I should have objected to, if it had been hinted to me.

Q. You are a law-abiding man? A. I have tried to be, sir.

Q. It looks very much like it. Did you ever make any complaint to anybody—any magistrate—about the pulling down of that house? A. None at all.

Q. Did you tell the sheriff about that? A. No.

*Re-Direct Examination.*

By Mr. McCorkle.

Q. You say this matter in connection with Jerry Lee occurred in 1867 or '68? A. Yes, sir.

Q. Do you recollect which year it was? A. No, I am not positive. I suppose that by reflection I could fix the time. I think it was in 1868. I am not positive.

Q. Was it before or after civil government had been inaugurated in this state? A. It was before.

Q. And you say that you would not have consented to the tearing down of that house? A. Not by any means.

Q. And never sanctioned it? A. Never sanctioned it.

Mr. MERRIMON. We wish to re-call Henry Holt for further cross-examination.

Mr. McCORKLE. I suppose you can, do it after we get through.

Mr. GRAHAM. We propose to ask him some questions upon a matter of which we were not informed at the time of his examination, and have since learned. We desire that he may be re-called for that purpose.

Mr. McCORKLE. Will the gentleman state what he wants to recall Holt to the stand for?

Mr. GRAHAM. I will sir, when he is on the stand.

Mr. McCORKLE. We object to it unless it has some bearing upon the matters in question.

Mr. GRAHAM. It is in relation to what took place at the time these disguised men came to Graham and fired upon his house. I want to ask him what preceded that.

Mr. SMITH. This is the same matter on which the witness was interrogated before. If the senate chooses to allow this, I do not know where we shall stop. They do not propose to introduce any new matters now, but to correct the deficiencies of their cross-examination the other day. We submit that the subject matter of that examination ought not to be re-opened.

Mr. GRAHAM. We propose to prove a new fact. I

understand we can prove that he fired at these men before they fired at him.

The CHIEF JUSTICE. That is new matter. Let the witness come in.

*Henry Holt*, the witness, was then recalled, but did not respond.

The CHIEF JUSTICE. Has he been notified to attend

Mr. BOYDEN. I asked the counsel upon the other side i the witnesses then examined could go home, and they said the had no objection.

Senator ROBBINS, of Rowan. I am imformed by a gen tleman from that town that the witness, Holt, went home o Saturday night and is not present.

Mr. GRAHAM. I did not know that this privilege woul be allowed, and therefore we gave him no notice ourselves.

DAVID ALLRED, *a witess called on behalf of the respon ent, being duly sworn, testified as follows:*

By Mr. McCorkle:

Q. Will you give your name, age and residence? A. M name is David Allred, my age is about 52. I think I was the 8th day of last October; my residence is about two mil and a half or three miles south of the Company Shops.

Q. In what county? A. Alamance.

Q. Do you know the witness, Samuel Garrison, who w examined here on Saturday? A. Yes, I know him. I worked for me.

Q. Will you state whether you saw his wounds after he h been whipped? A. Well, I saw it the second day. I was n at home the first day. I was gone to Caswell; on Saturd night I came home, and he said that he had been whipped.

Q. Just go on and state what was the character of t wounds, how he was whipped? A. Well, to get at it righ was gone to Caswell on some business, and I got home Sund He was said to have been whipped on Saturday night. I,

home Sunday evening, and just before I got home, I met him in the road. He said ——

Mr. GRAHAM. Don't state that. We object to what Garrison told the witness.

The CHIEF JUSTICE [to the witness.] You may omit what he said.

The WITNESS. On Monday morning I went to his house in the tan-yard. He had been working at the tan-yard, and I went over there.

Q. How long had he been working for you? A. Well, he had been working for us, off and on, about two years. He would work there and then over at the Company Shops. He had been working there some time. He asked me to go and look at his back. He wanted to have some tallow from the tan yard to grease his back. I then went with him over to the house. He stripped off his shirt and his wife washed his back and helped him grease it. He was there twice, I believe. He seemed to be cut very bad. He seemed to have been cut on one side and then on the other side. I didn't see how the hickory could have struck on both sides, but it seemed to be on one side and on the other, half way up his back and down to his hips, along across his hips. It seemed rather as though he had been struck that way [illustrating.] It didn't seem to be marked right in the middle of his back.

Q. State the character of the whipping, whether it was a light one or not. A. Well, I never saw many folks whipped, though I have been south and seen some whipped. But I never saw any as bad whipping as that was. I have seen some whipped at the public whipping post, but I never saw such a whipping as that was. I have seen white and black both whipped, but I don't think I ever saw anybody cut quite as bad before.

Q. He was very badly whipped, was he? A. I considered it so.

Q. How long was he laid up. A. I think about two weeks that he did not do any thing. He seemed very stiff when

he went to work. The first work he did, he did for me and Mr. Isley. He seemed mighty stiff—so that he couldn't roll a wheelbarrow about the tan yard.

Q. That was two weeks after the whipping? A. It was about two weeks. I first asked him if he could not help us a little, and he said he would be glad to, but he seemed very stiff about rolling the wheelbarrow.

Q. Are you acquainted with the character of Samuel Garrison. A. Well, I think it is as good as any black man's.

Q. [By Mr. Graham.] Will you state whether you know? A. Well, he had been with me somewhere about two years. Preacher Isley fetched him into the neighborhood. He had known his character all the time. It was good while he was there; he was very submissive to me the two years he was with me—never gave me a cross word, and he seemed to work well. I trusted him, and we had no lock to our lower door ——

Mr. GRAHAM. State what the people generally said about him.

The WITNESS. His character was generally as good as any black man's. I heard nothing else. I heard nothing said against him of any importance at all.

*Cross-Examination.*

By Mr. MERRIMON.

Q. Do you belong to the League? A. No, sir.

Q. Never did? A. No, sir, I never belonged to any secret society but the Sons of Temperance, and I got out of that as soon as I could.

Q. That was a good one? A. No, I never belonged to the League. I opposed it from the start and all other secret societies.

Q. When was this? A. That Garrison was whipped.?

Q. Yes, when was Garrison whipped? A. I don't recollect, but it seems to me it must have been sometime about the the last of November.

Q. What year? A. Year before last, I think, some time along about that. I cannot recollect.

Q. November, 1869? A. Well, that is my recollection of it. I won't say positively. You see, I was there, and I have been some at the Shops. Yes, I think it was last November a year ago. It was about that time—the latter part of the fall.

Q. You say you best impression is that it was November, 1869? A. It seems to me so.

Q. Do you know what he was whipped for? A. No. sir.

JOHN DENNY, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCORKLE.

Q. State your name, age and residence? A. My name is John Denny, I am fifty years old, and I live at Graham, Alamance county.

Q. How long have you been living there? A. I have been living there three years.

Q. State what you know about the taking out of Wyatt Outlaw, and all about it? A. I came home on Saturday night, about the last of February; came home from Salisbury; arrived at home about half after ten. I suppose about one hour afterwards I went to bed, and I had been in bed but a few minutes when I saw a light. I first heard some noise in front of my house, and then saw a light.

Q. What kind of a noise?

The CHIEF JUSTICE. Go on and tell all about it.

The WITNESS. It was simply some noise; I don't know exactly what kind of a noise; it was like something moving or a gate opening. I got up out of bed and went to the window and I saw some men walking toward the house of Wyatt Outlaw.

Q. How many? A. I suppose about twenty men.

Q. How were they dressed? A. Well, sir, they were disguised.

Q. Describe how they were disguised. A. They seemed to

have on white robes or gowns of some kind, and caps, perhaps, on their heads.

Q. State whether their persons were concealed so that you could know them or not? A. They were masked.

The CHIEF JUSTICE. State what you know.

WITNESS. When I saw them they were walking toward the house of Wyatt Outlaw. I suppose they were about seventy yards perhaps from my door. They walked up to his house and opened the door, pushed the door open and went in—a portion of them. They remained in there but a very short time and came out again. When they came out they turnend up toword the north end of the house, and when they moved a few feet they were out of my sight—the shop obstructed the view of the balance of Outlaw's house. They remained in there a few minutes—I don't know how many—four or five minutes, perhaps. They came out then. There was one of the party carrying a light in his hand. After they came out they threw the light away, and then came down toward the street in front of my house, got over the fence into the street and passed in front of my house on the opposite side of the street from where my house is, around to the right of my gate, and I heard them order to mount, and they did so—at least I heard something as of men mounting horses. It was very dark after the light was put out. I couldn't see anything but something white passing along.

Q. Then it was a very dark night? A. A very dark night, sir.

Q. How far was your residence from Wyatt Outlaw's? A. Well, sir, I think it was about eighty yards from my door to his house.

Q. You say that soon after they came out of the house the light was blown out and thrown away. A. Yes, sir, it was thrown away.

Q. And they went in such a direction that your view was obstructed—they went behind the house? A. No, sir, they passed up toward the north of the house.

Q. And that obstructed the view? A. The shop obstructed the view from me. I could see the door that they first went in at, and when they moved from that door four feet, I saw no more of them—the shop obstructed the view.

Q. Did you hear them open the door when they got there? A. Well, sir, I saw them open the first door—the door they first went to—and a portion of the men went in.

Q. How many do you suppose went in? A. Well, sir, I don't think there was more than half a dozen.

Q. Where did these men remain? A. They remained on the outside, in front of the house.

Q. How far from the door? A. Well, sir, I don't think they were many feet from the door. A portion of them were very near the door.

Q. You say that then they went up by your house and you heard the order given to mount? A. Yes, sir.

Q. Did you hear the horses' feet afterwards? A. Well, sir, I saw them—I saw something moving off. It was raining a little—was misty. I suppose I did hear their feet. I saw them moving off, though—saw something moving off.

Q. As if on horses? A. Yes, sir.

Q. State whether any of them were armed or not? A. I do not know, sir, whether they were or not. I saw no arms at all.

Q. In what direction were they going? Towards the court house or from it? A. When they mounted their horses they went in the direction of the court house; at least they went south. The street that I live on is not the same street that the court house is on, but they went in that direction.

Q. I will ask you if you heard any noise in Outlaw's house, members of the family or otherwise? A. Well, sir, I heard some talking over at Outlaw's house during the time they were over there.

Q. Did you hear his voice? A. No, sir, I did not hear his voice.

Q. The voice of any member of the family? A. I cannot

state. I heard voices, but I could not recognize any person voice. I am sure I did not hear his voice.

Q. Did you hear any cries of distress there? A. Well, si I heard some voice; the distance was so great that really I didn know whether it was a cry of distress or what. I heard a voic that I thought was a woman's voice, talking.

Q. You thought then that you heard a woman's voic talking? A. Yes, sir.

Q. State whether Outlaw had a wife? A. I think not, si he had no wife.

Q. Did he have any woman living in the family with him A. Well, sir, I think his mother lived with him.

Q. Did you ever see Outlaw after that evening? A. Ye sir, I saw him the next day.

Q. State where you saw him? A. I saw him in the cou house the next day. In the first place I saw a body hangin on a tree that was said to be Outlaw's, though I did not g within two hundred yards of it.

Q. How far was that from the court house? A. I think was about seventy or eighty yards.

Q. Did you state how many you thought were in the crov that night? A. I think there were about twenty, sir.

Q. Did you hear any remark made about watching perso or anything of that sort? A. Yes, sir, I heard a remark that kind. I heard the remark made, about the time th were climbing the fence, "Watch your prisoner."

Q. That was when they were coming off? A. Yes, sir.

Q. Coming from the house, and crossing the fence at house? A. Yes, sir.

*Cross Examination.*

By Mr. MERRIMON.

Q. You heard no outcry there, other than as you have d cribed? A. No, sir, only as I have described.

Q. Did you see anything of Kirk's troops there? A. Y sir.

Q. Describe them if you please—their discipline, and tl

behavior there. A. Well, sir they were very rough men I thought. There seemed to be very little discipline among them.

Q. What was their demeanor about the town, sir? A. Well, sir, I know of nothing except that they went into orchards and gardens frequently and destroyed fruits.

Q. Did you furnish the prisoners they had in custody with their provisions? A. I went every day to carry them provisions that were furnished by the citizens,—a portion of them by my own family, and the rest by other citizens of the place.

Q. How did you deliver that food, sir? A. Well, I delivered it sometimes at the "guard line" outside of the courthouse, and a few times I was permitted to go up to the door, the inner door of the court house, and two or three times a was permitted to go into the courthouse where the prisoners were.

Q. Did you furnish any to the jail? A. Yes, sir, I went to the jail several times with provisions.

Q. Do you know whether anybody was confined in the jail by them? A. Yes, sir.

Q. Who? A. Mr. Turner, Mr. Wylie, Mr. Weedon, and some other one perhaps.

Q. Were the courts open there regularly? A. I think they were.

Q. Were officers going regularly to their business and doing their regular business. A. I think so, sir.

Q. State, if you can, the state of feeling between the whites and blacks there. A. I think the feelings between the whites and blacks in Alamance were very good, so far as I know.

Q. So far as your observation extended? A. Yes, sir.

Q. The whites employed the blacks to cultivate their lands, and do other labor that they had to do? A. Yes, sir.

Q. And the blacks did the labor and there was a good state of feeling between them? A. Yes, sir.

Q. Were you at the coroner's examination touching the murder of Outlaw? A. Yes, sir, I was summoned.

Q. And examined as a witness then? A. Yes, sir.

Q. Were you ever afterwards examined? A. I was examined afterwards by Lieutenant-Colonel Burgen.

Q. You were examined, you say, before the coroner's inquest and by Colonel Burgen? A. Yes, sir.

Q. You gave the same testimony there that you have given here? A. I think so, substantially.

Q. Were you present when the mother-in-law of Outlaw was examined? A. No, sir, I was not present. I was not permitted to remain before the coroner's jury, when any other witness was examined.

Q. Then they put all other witnesses out when they were examining one? A. Yes, sir.

Mr. MERRIMON. That was proper.

*Re-Direct Examination.*

By Mr. McCorkle.

Q. Were you ever examined in court, before any grand jury, or otherwise, about Oulaw's murder? A. No, sir, I never was.

Q. I will ask you what is your politics. A. I have been acting with the conservative party, sir.

Q. Always? A. Yes, sir.

PETER HUGHES, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCorkle.

Q. Give your name, your age, and residence? A. Peter Hughes, I am thirty-one years old, and live in Alamance, near Company Shops.

Q. Will you state whether you know of any outrages being committed upon any persons in the county of Alamance, when it was and all about it.

Mr. GRAHAM. State what you know yourself, not what you have heard.

WITNESS—I know nothing outside of one raid that was made in the county of Alamance.

Q. Just state who were in the raid? A. My memory does

not serve as to each man; I think there was an assembly of about ten, and probably more.

Q. Give as near as you can, the names, if you please. A. I met these men at Shallow Ford meeting house; and they only told me that they were going on this raid.

Q. Give the names of some of them, if you do not remember them all. A. Rankin Lowe was one of them and William Lowe, Martin Gerringer, Rankin Lewie, John Tickle and Milton Huffines.

Q. Do you remember any other name? A. I do not know that I do. I don't remember.

Q. You said that you were going on a raid. State how you were dressed? A. They were in common dress when I saw them.

Q. State where they went, and all about it. A. I saw them the next day, and they told me——

Mr. MERRIMON. Don't state what they told you, sir.

Mr. McCORKLE. Why is not that evidence against them?

Mr. MERRIMON. It is your business to show first that it is proper evidence.

Q. Well, state what they did. A. I know nothing, sir, only just what they told me.

Q. What did they tell you they were going to do that evening?

Mr. GRAHAM. I object. Summon them to prove it.

Mr. SMITH. Their declarations are admissible to show a conspiracy against the liberties of the country.

Mr. MERRIMON. They have not yet shown any conspiracy.

Mr. SMITH. That is the ground upon which we put it, that it is a declaration showing a conspiracy against the liberties of the people.

Mr. MERRIMON. They have not shown any organization.

Mr McCORKLE. We will show it by this witness.

The CHIEF JUSTICE. Go on and show the organization.

By Mr. McCorkle, [resuming.]

Q. Will you go on and state whether you are a member any secret political organization existing in Alamance count A. I cannot say, sir, really that I was a member in Alama county.

Q. Well, sir, did you have anything to do with any sec political organization known as the Kuklux, or otherwise, that county? A. Yes, sir, I was somewhat connected with organization known as the White Brotherhood.

Q. With what "camp" did you act? A. Well, what acti I ever did was in Guilford county, sir.

Q. But I ask you with whom you acted—if you knew me bers in Alamance county? A. These men whom I have j named that were in that raid were a part of them.

Q. Were they members of the White Brotherhood? Yes, sir.

Q. Where do these parties live that you speak of? A. P of them lived in Alamance and part in Guilford.

Q. Where is this church that you refer to? A. It is in A mance.

Q. That is where you met them? A. Yes, sir.

Q. State, if you know, what obligation the members too A. I have the oath in my pocket, if that is what you allude

Q. That is what we want. A. I have that with the exc tion of one clause in it that I don't remember.

Q. Just read it, if you please.

Mr. GRAHAM. Does the witness know that the men speaks of took that oath?

Mr. McCORKLE. You had better let the clerk read it.

Mr. GRAHAM. Will you first ascertain whether he kn that these men took any such obligation as that?

Q. [By the Chief Justice.] State whether it was a par the rules that those who joined the "White Brotherho were to take an oath? A. I don't know that all of them take this oath; I know that a part of them did.

Q. I will ask you if this was the oath required by meml of the White Brotherhood? A. As far as I know it was,

The CHIEF JUSTICE. I think it right to have it read.

The WITNESS. I will show you where the part of the oath is that I do not remember. [The witness indicates the passage referred to which he does not remember.]

Q. [By Mr. Graham.] Is it marked, sir? A. Yes, sir.

The CLERK then proceeded to read the oath produced by the witness in the words following, omitting the words excepted:

"You solemnly swear in the presence of the Almighty God "that you will never reveal what is now about to come to your "knowledge and you will never reveal the names of the men "that initiate you, and that you have not, and do not belong "to the Red Strings, U. L. or H. of A. M., or other political "society or party whose aim and intention is to destroy the "rights of the states and of the people and to elevate the "negro with the white man, and you are opposed to all such or-"ganizations. So help you God.

"2d oath. You now further swear in the presence of the "Almighty God that you will be true to the principles of the "brotherhood and to the members; that you will never reveal "any of its edicts, orders, or principles to any person, not even "a known brother, or that you are a member yourself, or "who are members, and that you will obey all calls and sum-"mons of the chief of your camp when in your power to do "so; and should any member reveal any of the acts, orders or "secrets of this brotherhood, that you will assist in punishing "them in any way that the camp may direct, and that you will "not initiate or allow in this brotherhood any radical or any "one who sympathizes with them or has radical views, if in "your power to prevent. And should you know or see any "brother or his family imposed upon by any radical or negro, "you will go to their assistance and render them all the aid in "your power, or should you know them to be in imminent dan "ger, you will immediately inform them and go to their assist-"ance, and should you hear the word of alarm given, that you

"will go immediately to ascertain the cause and tender all the "aid in your power. So help you God.

"6th. There shall be six (6) regular initiated members in "this district before they have a right to form a camp and or-"ganize.

"7th. All members are requested to be suitably disguised "and ready for all occasions.

"8th. All members are honor bound to induce all true con-"servatives to join the brotherhood; in no case to mention "such to another.

"9th. The word of distress shall never be used by any mem-"ber only in cases of imminent danger or peril."

Q. There is a clause there that you say you don't remember whether it was in the oath or not? A. Yes, sir, I don't have any recollection of it.

Q. I see on this paper some characters. I will ask you whether this order had characters or signs which were known to each other by which they could advertise when they wanted a meeting, or anything of that sort, without letting the world know it? A. Well, sir, there were such things, but I don't remember what they were.

Q. You do not recollect the signs? A. No, sir.

Q. Did they have an alphabet? A. Yes, sir.

Q. Do you recollect how the alphabet was? A. I think, as well as my memory serves me, that "K" was "A."

Q. Then did they go on in regular order, K, L, M, and so on? A. Yes, sir.

Q. "L" would be "B?" A. Yes, sir.

Q. "M" would be "C" and so on? A. Yes, sir.

Q. That would be the mode of proceeding? A. As well as my memory serves me.

Q. You state that you know that the parties just referred to did belong to that organization? A. Yes, sir.

Q. What camp did you belong to or act with? A. I belonged in Guilford.

Q. But down there? A. Down there I didn't pretend to belong to any camp.

Q. What camp was it that had met? A. I don't know that it had a name or number.

Q. Tell us who was the captain of that camp. A. William Tickle.

Q. State whether the regulations of the order required that there should be other officers than a chief. A. Yes, sir.

Q. Who were they? A. I think that Sommers was one of them.

Q. Give his first name, if you please? A. Julius Sommers.

Q. What office did he hold? A. I think he ranked as lieutenant.

Q. Were there any other officers? A. Yes, sir, I think they had a chief, and I am not sure whether that camp had more than two lieutants or not. I think it had two, as well as I recollect.

Q. You think it had two heutenants? A. Two lieutenants—Julias Sommers and Peter Sommers, I think were the men; I am not positive about that.

Q. How many members had that camp? A. I do not know, sir.

Q. Couldn't you give us some idea? A. I reckon there were twenty-five or thirty, maybe more and maybe not so many.

Q. Twenty-five or thirty in that camp? A. Yes, sir.

Q. How many other camps were there in that county? A. I do not know, sir.

Mr. MERRIMAN. What county are you talking about?

Mr. McCORKLE. I am talking of the county in which this offence was committed, and where these parties met--the county of Alamance.

Q. You say that you do not know? A. I do not know.

Q. Were you ever in any of the other camps? A. No, sir.

Q. Did you ever meet persons, other than those belonging to this camp that you refer to, in disguise? A. Yes, sir.

Q. Just tell whom you met, and under what circumstances?

By Mr. MERRIMON. And where, too.

A. I met them—well, I have met Jacob Whitesell, I think, on different occasions, elsewhere. I have met him in Guilford, I think; I am not positive about meeting him in Guilford, though I think I have met him there. I remember meeting Jerry Albright betwixt Dick Baldwin's and Joel Tickle's field.

Q. Were they disguised when you met them? A. I don't remember whether they were disguised when I met them or not.

Q. Just go on and state all that you know belonging to it, at that meeting—all that belonged to that camp down there at the church? A. Indeed I don't remember; I could not tell you. It would take me all day. Probably there were thirty or over. I don't remember who they were. There were three men whom I have mentioned that belonged to it.

Q. At what church was it that you met? A. Shallow Ford church.

Q. You say you think there were about ten there that night? A. At the time they whipped Jordan?

Q. Yes, sir. A. I think it was about that number.

Q. Tell us about the whipping of Jordan. A. I know nothing of that, outside of what they told me, sir, when I saw some of the parties the next day.

Q. Some of the parties that you have named here? A. Yes, sir.

Q. What did they tell you? A. They told me they had whipped him.

Mr. MERRIMON. I object to that.

Q. Will you state what was the object of this organization beside the oath? A. I understood it was for home defense principally.

Q. Was it to last for a long period or not? A. I did not understand whether it was to last one or a hundred years.

Q. How long did it exist in Alamance? A. I cannot tell you, sir.

Q. Well, a week? A. Yes, sir.

Q. Years? A. Yes, sir, it existed a year or may be years; I reckon it was two years. I think it existed two years.

Q. When did you first know anything about there being members in Alamance county? A. About the first part of 1869.

Q. How long did you know it to exist after that time? A. Well, until about the time Kirk came, I think—a little while before that.

Q. What were their rules about whipping the people, by whom it should be done, what camps, etc., were to do it? A. I do not understand that question; I don't know what you mean by saying "What camps."

Mr. GRAHAM. It is an improper question, Mr. Chief Justice, to his own witness.

Mr. McCORKLE. The witness admits that he belongs to the order.

The CHIEF JUSTICE. I do not think the question is improper, considering the circumstances.

Q. Will you state whether one camp, when it decreed that a person should be whipped, executed that decree, or got some other camp to do it.

Mr. GRAHAM. That is a leading question, Mr. Chief Justice.

The CHIEF JUSTICE. The presiding officer thinks the question is admissible.

The WITNESS. A. Some other camp was to do it.

Q. You say that whenever one camp decreed that a person should be whipped, the members of another camp were to execute the decree? A. Yes, sir.

Q. One near by, or a distant one was to execute it—which do you mean? A. I do not know that there was any distinction made there, sir.

Q. But you say the camp in which the party resided that they named to be whipped, were not to execute the order? A. No, sir.

Q. They were to get some other camp to do it? A. Yes, sir.

Q. Will you state what was the object of that? A. It was to avoid detection, I suppose, sir.

Q. To avoid the detection of the parties who inflicted the punishment? A. Yes, sir.

Q. Will you state whether you were in any of the camps when there were decrees that citizens of the county should be whipped? A. I don't remember, sir, that I ever was.

Q. What did you do down there at the church? A. That was a question already decided, and the parties were there ready to proceed with the whipping.

Q. [By the Chief Justice.] You can state what they said when you met them, as to where they were going. A. Well, sir, they told me where they were going and what they were going to do. They told me they had met there for the purpose of whipping Daniel Jordan, and they intended to carry it out.

Q. Did they tell you what camp had decreed it? A. They did not, sir.

Q. Did you go with them? A. I did not, sir.

Q. Did you see any of them afterwards? A. Yes, sir.

Q. What did they say? A. They said they had whipped him.

Q. How much did they say they had given him? A. They did not state the lashes; they just said that they had given him a good whipping.

Q. These ten men that you refer to? Yes, sir.

Q. When did they say they had done it? They said they did it that night.

Q. Did they tell you the hour of the night that they whipped him? A. No, sir. I don't remember asking them the question or their telling me.

Q. You don't recollect, then? A. No, sir.

Q. Do you know of any other whipping beside Dan'l. Jordan? A. Not in the county of Alamance.

Q. Do you know of any persons that were whipped out of

the county of Alamance by the citizens of Alamance? A. I do not, sir.

Q. What about Major Smith? A. Major Smith was in Guilford, whipped by Guilford men.

Q. How far from the line? A. Five or six miles.

Mr. Manager SPARROW. You are bringing out testimony that is incompetent.

Mr. McCORKLE. We are not asking for that.

Mr. GRAHAM. But you are bringing it out, and it is on the record.

Mr. McCORKLE. I did not intend it.

Q. I will ask you whether there was a camp on this Guilford line, or not, embracing people on both sides of it, in both counties, near where Smith was whipped? A. I do not know as to that. There was a camp south of the railroad, with which I was not acquainted. I do not know whether there was one that existed on both sides of the railroad, or on both sides of the county line, or not,

Q. Then you say you don't know anything about any other whippings in that county? A. No, sir, not of my own knowledge.

Q. Did you ever hear any of the members of the organization speak of any other whipping? A. Oh, yes, I have heard them speak about it frequently.

Q. Just state what persons told you so, and who they had whipped. A. I do not remember.

Mr. MERRIMON. Mr. Chief Justice, I object to that.

Q. Can't you give us a single instance? A. I cannot, sir, from the fact that I don't remember. It was talked of frequently.

Q. I will ask you whether it was very common —— A. Yes, sir, it was a common thing to speak about these things—about raids being made.

Q. Was it common for them to whip the citizens of the county? A. Well, it was not a very uncommon thing to hear of somebody being whipped.

Q. [By Mr. Graham]. That is, by report? A. Yes, sir, by report.

Q. Was it common to hear it from members of the White Brotherhood?

Mr. MERRIMON. We object, Mr. Chief Justice, to the question. I say that this oath does not show any combination to perpetrate crime.

Mr. SMITH. The oath taken expressly shows a purpose to execute all orders of the chief. They banded themselves together to crrry out the purpose of their organization, and while that organization existed they were in the almost daily practice of inflicting these unauthorized punishments. Of course their declarations and their acts are a part of the case and show a condition of things in the county which led to this military movement.

Mr. MERRIMON. Mr. Chief Justice, on that point we take issue with the gentleman. There is no provision in this oath which makes it obligatory or even suggests that the the member is to do any unlawful act. The counsel say that because members are bound to obey the orders of the organization, therefore they are bound to commit a crime. That, sir, is a *non sequitur* in point of law. They take that obligation, and the presumption is, unless the contrary appears, that they are only bound to do lawful acts. If their object is to show by this oath or any other oaths they can produce an illegal purpose, they must point to the provision by which they are bound to do the unlawful act.

Mr. SMITH. Mr. Chief Justice, the member swears that he "will obey all calls and summons of the chief of your camp while in his power to do so." There is no exception whatever—"and should any member reveal any of the acts, orders or "secrets of this brotherhood that he will assist in punishing "him in any way that the camp may direct, and that he will "not initiate or allow in this brotherhood," &c. It will be seen by senators that there is no qualification or exception. It is an absolute undertaking to execute any and all orders legal or ille-

gal, warranted or not warranted, and, in fact, that was the construction upon it. This witness states it. He did undertake to execute the orders of the camp. We submit that, under such a bond as the bond they gave, they are all responsible for the acts of each other.

Mr. MERRIMON. Mr. Chief Justice, I have seen the obligation and oaths taken by other secret societies called the "Union League" and the "Heroes of America," &c., &c. They are all run in the same way, and because they are sworn to do what they are required to do, does it necessarily follow, as a matter of law, or as a necessary consequence, that they are bound to do an illegal act. With all respect to the gentleman I never heard such an absurd proposition. When a man takes an obligation the understanding is that it is an obligation to do lawful acts. If it was intended that a member should do an unlawful act, the oath should contain a provision to that effect. If it can be shown that there was an oath requiring a member to do an unlawful act let the oath be produced.

Mr. McCORKLE. Mr. Chief Justice, in order to test whether this evidence is competent or not, let us inquire what are the facts which the witness has deposed to, and what is the nature of the obligation which a member took who belonged to this organization. In the first place, the oath says that it shall be the duty of every member belonging thereto to obey, not what the gentleman alleges, the "lawful" commands of the officers of the camp, but to obey all the orders and all the commands emanating from the officers of the camp. That, sir, is the nature of the obligation. The oath shows that one of the objects of the organization was to prevent the civil and political equality of the two races, a purpose which is itself illegal, and clearly a violation of our own constitution, and an attempted subversion of the civil rights bill. The witness says that for the purpose of preventing the detection of members in their illegal acts, the plan was to have the whippings decreed by one camp done by others. This was to prevent detection by what? obviously by the civil authorities and to prevent punishment.

Mr. MERRIMON. I ask the gentleman if that is in the oath.

Mr. McCORKLE. No, sir, but I say the witness has stated that, in order to prevent detection whenever a decree is made in one camp, that a citizen living within the bounds of that camp shall be scourged, that decree must be executed by some other camp. That being the case, can there be a particle of doubt, although my friend says the proposition is an absurd one) when any member who belongs to that organization is bound by an oath to carry out its purposes which have been stated by the witness, that we have not a right to offer the declaration of any one as to the acts of all? What does this amount to Mr. Chief Justice? Is it not a conspiracy? The witness shows that one of the purposes was to go disguised, and that of itself is a violation of the law. Here, then, is a direct violation of one of the statutes of our state,—a conspiracy to violate the law, and I appeal to the legal gentlemen, members of this court, to say whether there can be any proposition clearer than this, that if two or more men conspire together to do an illegal act, and that conspiracy has been once established, you cannot offer the declarations of any of the co-conspirators as to any statement or any fact that took place in furtherance of the common object whether there be any conspirators present or not. I say that, although my friend characterises this as absurd, it is a principle of law coeval with the existence of the common law, and that no proposition is plainer.

Mr. MERRIMON. Mr. Chief Justice and Senators, the officers and soldiers of the army take an oath that they will obey such orders as are given them. That is so by the law of the land, and it is so by the articles of war. Will any man contend that if the commanding officer or general should command a soldier to go and shoot another person he would be bound to do it? Will any lawyer or any court put the construction upon the oath taken by the soldier that he is bound to execute *all* orders which may come from his superior officer, lawful or unlawful? The question is too plain to need debate. The

meaning of that oath is that the soldier will execute all lawful orders that may be given to him by his superior officers from the president of the United States down, or by the governor of the state if he belongs to the militia. Sir, that is the construction to give in all cases of this kind. No other legal construction can be given. The implication is nothing else than that the party charged with that oath is to do that which is lawful, unless there is some express provision that he should do that which is unlawful.

Sir, this oath purports to contain the purposes of this organization. If anything else was to be done, it does not appear by this oath, nor does it appeor by anything that has come before this court that there was any other object than to accomplish the things provided for in that oath. There is no provision in the oath that any person connected with the order should perpetrate a crime. There is no provision that he should whip or kill, or injure anybody in any way whatever; and I say, as matter of law, it cannot be inferred that there was such a purpose. We have had secret societies in this country before, and one which extended all over the country, from Maine to California, and which was known in its day as the "Know Nothing" order. Its members took oaths—three or four different kinds, and quite as binding as that which has been read here, and I wish I had them here that I might read them. This Know Nothing organization held its meetings at night, and it was even called the "Dark Lantern" order. Suppose the members had assembled in a particular Know Nothing lodge, and decreed that A B should be whipped and C D should be killed, will any man pretend that what these men said to each other could be evidence against everybody that belonged to the Know Nothing order? The idea is absurd, and the very suggestion would shock the legal mind. So here, if this organization was for the purpose suggested by this witness, as far as he has gone now, if it was for such a purpose as is developed in this oath, and there was no purpose to perpe-

trate crime, I say it is absurd because a half dozen members got together on a particular night, and decreed that Jordan or anyone else should be whipped, that the declarations of any of these men should be given in evidence as against every other man in the order in the county of Alamance.

The gentleman has laid a great deal of stress upon the provision of the oath, that the object is to prevent the supremacy of the black race, and the supremacy of the radical party. Sir, I undertake to say to this court that every American citizen has a right to defeat the radical party if it can be done by lawful means. I say that citizens have a right to combine as a party to change the constitution itself, if they desire. There is nothing wrong in their acts until they resort to unlawful means to accomplish their end. Every democrat and every conservative has a right to assemble in secret, and devise plans to overthow any other political organization, and so have republicans a right to assemble secretly to accomplish the same thing with reference to the democratic party if they desire to do so. That has been the policy of parties in this country from the foundation of the government until to-day. Men meet together at the capitol and all over the state for that purpose. My friend, Mr. Sparrow, has handed me a paper which shows that there are other organizations bound by secret oaths.

Mr. SMITH. That has nothing to do with this case.

Mr. MERRIMON. I do not propose to put it in evidence. I simply read it as part of my speech.

Mr. SMITH. We are now discussing the obligation which has been proved by the witness.

Mr. MERRIMON. I am showing, Mr. Chief Justice, by my argument, that the respondent has no right to prove a declaration that members of this organization were perpetrating crime as evidence against the whole organization until they show that the object of that organization was to perpetrate crime. They have not yet shown that there was a general combination for

that purpose. They offer declarations as to the whole organization and that I say is inadmissible.

Sir, I have in my hand what purports to be the "Ritual, "constitution and bye-laws of the Union League of America, "together with all the necessary information for the full work-"ing of subordinate councils;" and I have no doubt that if my friend were to read it he would be very much shocked at the provision it contains. Let me read an extract to show the object of that organization.

"The object of this organization shall be to preserve liberty "and the union of the United States of America, to maintain "the constitution thereof and the supremacy of the laws; to "sustain the government and assist in putting down its ene-"mies; to protect, strengthen and defend all loyal men without "regard to sect, condition or race, and to elect honest and "reliable union men to all offices of profit or trust in national, "state and local government, and to secure equal civil and polit-"ical rights to all men under the government."

In some respects, that organization is very much like the one which is in question here. I have not time to turn to the oath. The members of the Leagues had a perfect right to organize in the way they did. But suppose that some night the League got together, and they decreed that A B's barn should be burnt because some members of the Kuklux had whipped a colored man, will my friend pretend to say that every one who belonged to the Union Leage, as it is called, would be responsible for the crime perpetrated, because a subordinate branch got together and decreed that the barn should be burned and then went and burnt it? Yet, they could contend with as much propriety, and that it was evidence against the whole organization as to contend that any man belonging to the White Brotherhood who had perpetrated a crime should make the whole organization responsible. They cannot introduce the declarations of these parties until they show the organization was gotten up to commit crime, and then they may show the act complained of was one of the acts for

which the organization was brought into existence. If they show a combination to accomplish an end provided in the oath in a lawful way, and a lot of men belonging to that organization get together and decree a particular man shall be whipped, that certainly is a crime for which the perpetrators are amenable; but so long as it does not appear to be any part of the general object, they cannot come into court and prove all the declarations of these parties touching the commission of the crime, and contend that is to go against the whole organization. I say, sir, that is too plain for debate.

Mr. BRAGG. I hope that the question will be reduced to writing. I think there is some misconception as to what it is.

Mr. SMITH. We have reduced it to form, and we will hand it to the clerk.

The CLERK proceeded to read the question in words following;

"Do you know, or have you heard from members of the "White Brotherhood while it was in existence as an organ-"ization of any, and if so, what acts of violence committed "by such members within the counties of Alamance and "Caswell? if so, state them."

Mr. BOYDEN. Mr. Chief Justice, it is admitted on the part of the respondent, that unless we have already shown that there is a secret combination called the White Brotherhood, the Kuklux klan, the Invisible Empire, or the Constitutional Union Guard, no matter what the name is, and that the different camps have the same general object in view, and that that object is illegal, then we cannot offer this testimony. But if that has already been made to appear, then I say no matter in what county the act was perpetrated what its members did or said would be evidence. In the first place they start off with doing that which is an open violation of the law of the land. The oath itself shows that. What right had these men to administer oaths? I should like to hear gentlemen upon that part of the case. Had these associations a right to call upon men and swear them in a most solemn manner to

carry out their object? If they can show any authority for these men to administer the oath, all right.

The gentleman has supposed the case of a soldier in the army in the regular service or the militia who has been called upon to take an oath to obey the commands of his superiors, and he asks, if in such a case, that man should be commanded to commit murder or any other offence he would be responsible for it. Not at all.

Mr. MERRIMON. The gentleman has misapprehended the point.

Mr. BOYDEN. I think I comprehend the question perfectly. The gentleman is generally very distinct in his statements, and I have power, I think, to comprehend a gentleman who speaks with the precision that he does.

Mr. MERRIMON. But the gentleman has mis-stated my argument.

Mr. BOYDEN. I certainly did not mis-state intentionally. The case he supposes is where there is a proper authority for the administration of an oath and the soldiers were engaged in lawful business. Here, we say, that this whole matter is illegal. This order violates the whole law of the land in the administration of the oath, and in this very paper it is shown that men are sworn to punish. Let me read a part of it.

Mr. SPARROW. He has sworn to punish who?

Mr. BOYDEN. I will come to that, sir, in a moment. If they have the power to punish any human being, will the managers tell us where they get the power, or show us the law that gives it to them? Here is a portion of the oath:

"You now further swear, in the presence of Almighty God, "that you will be true to the principles of the Brotherhood "and to the members; that you will never reveal any of its "edicts, orders or principles to any person, not even to a known "brother, or that you are a member yourself, or who are the "members, and that you will obey all calls and summons of "the chief of your camp when in your power to do so, and "should any member reveal any of the acts, orders or secrets

'of this Brotherhood, that you will assist in punishing in "any way that the camp may direct."

Yes, sir, here is a society that administers the most solemn oaths to the persons initiated, when they have no right to do any such thing. They make it so sweeping also, that whatever punishment is decreed each member will assist in carrying it out.

I say, then. the question now to be determined is whether we have established the fact that these organizations have been formed in Alamance, and that their object is illegal. It is admitted on the part of the respondent that, unless it has been established, we cannot yet offer the evidence. We insist that we have established by the witness now on the stand that the object is illegal, and that the declarations of all these persons who have entered this illegal combination are competent.

Mr. BRAGG. Mr. Chief Justice, I hope the court will pardon me for a few remarks. The question which is now presented, is one on which will turn the admissibility of a good deal of evidence hereafter. In other words, I regard this question as an entering wedge for a class of testimony which I consider to be improper, or I should not say a word. This discussion has taken a very wide range. I do not desire to say one word in amplification of what has been said by my associate, [Mr. Merrimon,] but I desire to call the attention of the court to the nature and purport of this question. It is,

"Do you know or have you heard from members of the "White Brotherhood while it was in existence as an organi-"zation of any, and if so what acts of violence committed by "such members within the counties of Alamance and Caswell? "if so state them."

Now, sir, as to the part of the question which calls for the witness' own knowledge, I have no objection. That evidence has been offered time and again. But it is to the next branch of the question which, leaving out what relates to the witness' knowledge, we object to. It reads thus:

"Have you heard from members of the White Brotherhood while it was in existence as an organization of any, and what

"acts of violence committed by any members within the "counties of Alamance and Caswell?"

Now this is asking for hearsay, not hearsay as to any common design, or object, for we all admit that when a combination is proved to exist, anything that is said by any member of the combination tending to carry out the common design, is evidence—and my friend on the other side need not have labored to establish that principle here. But that is not the question here. What is it then? Why it is to call out hearsay as to what any parties who are alleged to have belonged to this organization had said subsequent to certain illegal acts being committed, as to who committed them, and what the illegal acts were—not to carry out the combination, but confessions made by some of the members of the organization to him as to what had been done, or what he had understood to have been done; and that loose inquiry spreads over the whole country. I undertake to say to the senate and to every lawyer within the hearing of my voice that evidence of that kind is not admissible. Clearly confessions of illegal acts committed would be evidence against any party acknowledging that he had committed them; but it cannot be given as evidence against others under the idea of a combination of parties with no illegal purpose proven. I submit, therefore, that this question is one which should not be asked.

Mr. SMITH. Will the court permit me to make a few remarks in reply to the suggestion offered by the learned counsel [Mr. Merrimon and Mr. Bragg.] As respects the argument addressed to the court by the learned counsel, Mr. Merrimon, let me say that two wrongs cannot make a right. He may read five hundred oaths if he pleases, of as many secret societies and may comment on them as he chooses, and they have no bearing or reference to the question of the lawfulness of the oath which has been proven before this court. If any similar oath is required of members of other organizations, those organizations should be suppressed, and I hope they will be suppressed by the laws of the country. But the learned gentleman says,

suppose a soldier takes an oath to obey the command of his officer, it means the lawful commands, or if the commands are not lawful the oath is not obligatory. I fully concur with him in the view that if the command is unlawful the oath has no force upon the conduct or conscience of a party who takes it. The use of the word "*lawful*" or "*unlawful*" cannot make any difference in the obligation whether it be with or without an oath, if the obligation is in contravention of the law of the country where it is taken. But that is not the question here. The enquiry is, does this *obligation undertake to impose upon the conscience* of the man who takes it, a resistance to the laws of the country the protection of which he enjoys? Is its purpose to supercede the judicial administration of law? Has this obligation any such qualification as makes its form lawful? What is it to *punish?*—for that is the word. It is to *punish* any person who reveals any secrets of the order. If a man commits an offence under our laws, he is brought to a court of justice to be punished for his offence by its sentence.

This obligation undertakes to *punish* acts without the sanction of law and we show in connection with the acts of this order that the punishment, as understood in the oath, means a *physical punishment.* It is no crime under the laws of the land to make a disclosure of the objects of the organization or to reveal its secrets; but this obligation provides that if a man does reveal the secrets, he is to be punished and each member swears that he will do his part in executing the sentence which the camp shall impose.

I come now to the next point and the only one presenting any difficulty. The learned counsel, Mr. Bragg, would be right in the proposition he lays down if this conspiracy embraced but a single act of outrage, and if that was the only subject matter of enquiry, then the statement of the conspirator would be in the nature of a narrative against other people who participated in it. But that is not our case; this illegal organization extended over an entire county, and continued for two years or more, and is itself a *continuing conspiracy*

It has no cessation, no interruptions and these declarations are a part of the *acts of those engaged in the execution* of illegal objects by the infliction of punishment without the authority of law. But let me cite an authority upon this point. Greenleaf says in volume 1, section 111:

"The connection of the individual in the unlawful enterprise "being thus shown, every act and declaration of each member "of the confederacy, in pursuance of the original concerted "plan, and with reference to the common object, is, in contem-"plation of law, the act and declaration of them all; and is "therefore original evidence against each of them. It makes "no difference at what time any one entered into the con-"spiracy. Every one who does enter into a common purpose "or design, is generally deemed, in law, a party to every act "wichh had before been done by the others, and a party to "every act which may afterwards be done by any of the others "in furtherance of such common design."

We have somewhat reversed positions in reference to the point in controversy, the gentleman says. I don't think we have. But my friend on the other side insisted in the earlier part of this trial that they had a right to give in evidence declarations made after the whole object of the conspirators was executed; in other words, he insisted, under the authority of the law cited from the English Common Law Reports, that a declaration of one party to a conspiracy was admissible against all, not only while the transaction was in course of execution, but also when it was a completed act. Now, admitting this to be incorrect, the counsel said the evidence ought to be limited to declarations made *in furtherance of that purpose.* That is the principle which this court has decided. We say that the original purpose was not to punish A or B only, but far more comprehensive in its scope, to punish any man in the county who should commit an offence which this secret organization in the exercise of unrestrained will, shall determine to regard as punishable.

This organization extended over the entire territorial limits

of the county, and had for its objects the punishment of all men against whom a decree should be made by any one of its various camps. It was, in other words, the superceding of the legal authority of the state, and in this view all declarations of these parties during the period the organization existed is evidence against all of them, and still more are they competent evidence as showing the ground upon which the military was sent into the counties of Alamance and Caswell.

Mr. GRAHAM. I beg leave, Mr. Chief Justice, to say a few words, as the gentleman has chosen to refer to an authority that I introduced into this trial from the English Common Law Reports, and which he says we should be bound by, although he admits that he was not, as the court took a different view. We submitted to the ruling, and we expect that that rule which was applied to us shall be applied to the respondent.

In order to test the matter which is now before us, let us see how it would be if one of the individuals of this organization had committed a homicide in some portion of the country. Is everything he said to go in evidence against another man in a remote part of the country? Yet from the reasoning for which the gentleman contends, the whole organization and everybody who joined any of the camps are to be made responsible for the crime. That clearly is not so. I admit that, so far as the evidence has yet gone when you prove that what a member of a particular camp said and did, and of which the others are cognizant and to which they gave their approbation they would be bound by. But this is a propostion to do what? Here is the question:

"Do you know or have you heard from members of the "White Brotherhood when it was in existence as an organization "of any, and if so, what acts of violence committed by such "members within the counties of Alamance and Caswell? If "so state."

That is to say, all hearsay that this man may have had from any individual in the county may be given in evidence against any and every man in the county who belonged to this or-

ganization. In other words, if one of these men were on trial for a homicide, although it might have been committed in a different part of the county, all the prosecution would have to do would be to prove, in the firsi place, the fact and in the next place to prove that a person remote from the scene of the murder encouraged it in this way. The gentleman who first addressed the court, Mr. Boyden, insisted that this is an illegal combination, because its members took oaths not authorized by law. I do not know that that is an indictable offence. He says also that they combined to punish. To punish who and how? To punish their own members and punish them only, and not to punish others if this oath is to be believed. The question here is, whether, if somebody else outside of the organization suffered an injury every man is to be indicted and punished in the organization for that offence. Clearly it cannot be held that a conspirator against the government or the life of an individual is to be bound except for the objects of their conspiracy. The conspiracy alleged here is that the members all took an oath, that if one of their number should reveal certain things, they would assist in punishing him and whether the punishment should be corporeal or otherwise it is not necessary to discuss. Granting it is so, this is not a proposition to give in evidence the fact that they did punish any of their members, but it is a proposition to give in evidence that they punish somebody else, and to prove it by a report coming from persons who are not named. There must be something more definite than this before this hearsay can be resorted to. It must be shown that there was a general conspiracy for the purpose of committing crimes and whipping individuals, to cite that as an example, and when that it is proven, what any person who united in that conspiracy to whip that individual said or did and what others said may be given in evidence against him. But under the proposition of the gentleman, long after the transactions have taken place they may give in evidence anything that this witness heard in the way of confession as evidence against all others in the county. That is not the meaning of the rule as

applicable to conspiracies for the purpose of committing a particular crime. It is a proposition to convict the whole by what some one has said after the transactions have taken place; and I say, sir, that such evidence as that wants the precision in its application which is necessary to make it legal evidence.

The CHIEF JUSTICE. There is no difficulty in regard to the general principle of the law such as was read by the counsel [Mr. Smith] that wherever a conspiracy is proved, anything done or said by any one of the conspirators in furtherance of the common object is evidence against all. There is no question about that, but the difficulty is in making the application. The presiding officer is of the opinion that the ground has not been laid to make this question competent. The respondent relies upon the oath. That seems to be indefinite. It does not clearly set out its meaning. Until they prove what was the object and purpose of this organization such evidence as this ought not to be heard. If they heard that one of these designs was to go about to whip and scourge and commit other outrages it would let in every thing of the same kind; but even then it would not let in proof that any one of the members had stolen anything or had committed a rape, because that would not be one of the illegal objects for which the organization was brought into existence. The presiding officer however does not think that the respondent is bound by the oath. There is a difference between an oath administered by a lawful authority and an oath which men get up for their own accommodation. They could very easily screen themselves by leaving out any thing in the oath and just taking it in general terms; so it does not exclude proof *aliunde* as to what was the real object of this organization. But until that is done I think the evidence could not be heard.

By Mr. McCorkle, [resuming.]

Q. What was the object of this organization? A. I do not know that I know as to the true object of it.

Q. You can form some idea—some opinion? A. My un-

derstanding was, when I was first made acquainted with it that it was merely to keep down outrages and stealing.

Q. How keep them down? A. In case a man in a settlement was guilty of stealing and was not prosecuted by the law.

Q. Then what? A. Then he would be taken and lynched by the Kuklux or White Brotherhood.

Q. You say that one of these objects was that if the law did not take hold of persons who had committed crimes, it was the purpose of the Kuklux to take the parties and whip them? A. Yes, sir, that was my understanding, that where the law failed to take hold, when the evidence was thought sufficient to convict him and he was not convicted.

You said that in carrying out this object, whippings were inflicted upon those who violated the law, by the decree of the camps? A. Yes, sir.

Mr. McCORKLE. I suppose, Mr. Chief Justice, that is sufficient?

The CHIEF JUSTICE. That lays the foundation.

Mr. BRAGG. I desire, Mr. Chief Justice, to have a ruling on the other objection which I made.

The CHIEF JUSTICE. What was that?

Mr. BRAGG. The respondent inquires as to what was said by the members of the organization, and what they had done in furtherance of the common design.

The CHIEF JUSTICE. While the organization existed, what was reported in reference to its acts at different times, the presiding officer thinks would be evidence.

Mr. BRAGG. The question is this: "Do you know or have "you heard from members of the White Brotherhood, when "it was in existence as an organization, of any, and if so what "acts of violence committed by such members within the "counties of Alamance and Caswell?—if so state them."

The CHIEF JUSTICE. The question refers to time when the organization was in existence, does it not?

Mr. BRAGG. Yes, sir.

Mr. GRAHAM. We submit, Mr. Chief Justice, that this

evidence is not competent because it is giving declaration as to acts which have been committed by them individually in the way of a narrative or information. It is nothing said in furtherance of a common design, but is a narrative after the affair is over, given by some one or another of a transaction which the witness has not seen or heard.

Mr. MERRIMON. Mr. Chief Justice, I beg to make this further objection. This witness has not stated that he is in full possession of the objects of this organization. I understood him to say at the outset that he did not know a great deal about it, that he had not been present at any except to the camp where he was inducted into the order in the county of Guilford, and that then he went across once or twice into Alamance. He does not pretend that he is able to state the general purpose of this organization. He has not yet qualified himself to speak of those general objects and purposes. I submit that a man who has simply been introduced into an order is not qualified to speak of its objects, unless he states positively that he knows its general objects. He can state anything that that particular camp did, but when he belongs to one single camp, with no more opportunities to learn than have been deposed to by the witness, he is not qualified unless he knows from other reliable sources the general objects in the two counties.

The CHIEF JUSTICE. In reference to the first point, that the respondent can not give evidence of what these men said as to certain things being done, the presiding officer is of the opinion that the question being restricted to the continuance of this organization, it is competent to show what the members reported to each other, because it was calculated to encourage and stimulate them to go on to commit other acts in furtherance of the common design. As to the other point that this witness has not qualified himself to speak of the purposes of the organization, the presiding officer, as he understands the witness, thinks he has shown himself competent to speak.

The witness has some difficulty in expressing himself, but he

says that one of the objects that he learned from members at the meetings or otherwise was to punish men who were not punished by the law.

Mr. MERRIMON. I would like, Mr. Chief Justice, before the examination proceeds to ask the witness a question or two.

Mr. McCORKLE. The question has been decided.

Mr. MERRIMON. I think, Mr. Chief Justice, we have clearly a right on the question of the witness' qualification to ask him in reference to his knowledge.

The CHIEF JUSTICE. You can examine the witness.

By Mr. MERRIMON.

Q. State whether you have a knowledge of the general objects of the White Brotherhood, and if you have, state what they are? A. I do not know as I have.

The CHIEF JUSTICE. The presiding officer thinks that that does not meet the objection at all. The witness should be asked what his means of knowledge are of the objects of the organization of which he was a member.

Q. Do you know anything outside of that camp where you were introduced as to what was the common object of the organization in those two counties? A. No nearer than I told you before.

Q. Were you in the general meetings of the organization? A. Do you mean in a county meeting?

Q. I mean a county meeting of the organization? A. No, sir.

Q. You never attended a county meeting of these camps? A. I have attended one general meeting in Guilford county but never in Alamance county. This was not a county meeting, it was a meeting of detachments of camps all collected together.

Q. I ask you whether you met the assembled authorities of this organization any where? A. No, sir.

The CHIEF JUSTICE. The presiding officer thinks the witness is qualified to speak of the objects of the organization.

It is not necessary that he should be where the head men of the organization are meeting. He can get the objects by attending camp meetings. I think he has shown himself sufficiently conversant with members from what he has testified to to say what the objects were.

Mr. MERRIMON. We would like, Mr. Chief Justice, to have the sense of the senate on this question.

The CHIEF JUSTICE. If any senator will call for it the presiding officer will put the question.

No senator asking for a decision of the question by the senate the examination proceeded.

By Mr. McCORKLE, (resuming.)

Q. Have you ever talked with the chief of the Klan in Alamance county about the organization as to the objects of the order.

Mr. MERRIMON. We object to the question.

Mr. Graham. The object may be different in the two counties.

Q. Have you ever talked with the chief of the Klan in Alamance county? A. Do you mean the chief of the county or the chief of a camp?

Q. The chief of the county? A. I never did to my recollection.

Q. Did you ever talk with the chief of the county of Guilford?

Mr. MERRIMON. We object to the question.

Q. You have talked with the chief of the county of Guilford?

Mr. GRAHAM. The question has been objected to and we desire to have a decision before it is answered.

Mr. McCORKLE. Mr. Chief Justice, I suppose the question is admissible, in so far as to prove the competency of the witness to speak of the condition of the organization and its objects, to show that he had conversed with the grand chief of another county.

Mr. GRAHAM. There is no evidence that the organization was the same in the two counties. I do not think it sheds

any light on the question. We have many organizations which are independent of one another and are self-governing in associations, and it may very well be that such is the fact with reference to the organization spoken of here.

The CHIEF JUSTICE. I understood the witness to say that they had a chief of a county and a chief in each camp, and I understood him also to say that he had talked with the chief of the klans.

Mr. MERRIMON. I do not recollect of the witness answering the question.

By the CHIEF JUSTICE. Did you not say so? A. I don't think he answered the question.

Q. Did you ever talk to the chief of one of the klans in the county of Alamance. A. Yes, sir.

Q. Have they associations called county associations? A. Yes, sir.

Q. Does the association reach to other counties and take in three or four counties, or is it confined to one county? A. It extends I think.

Q. Which county do you live in? A. I live in Alamance now, but I lived in Guilford fifteen months ago.

Q. When you belonged to the brotherhood you say you were in Guilford? A. Yes, sir.

Mr. SMITH. We are not trying anybody now upon the principle that the declaration of one conspirator is admissible against the other. No one is on trial and I would ask if each one of five hundred of that organization came to the governor and admitted that he had committed a murder, we cannot prove the fact to show how the governor came to issue the proclamation. In other words, is it not proper evidence, with the view of showing the ground upon which the proclamation was issued, to prove that men had confessed to have committed crimes? This is not the case of where we are endeavoring to punish men by the declaration of another.

Mr. GRAHAM. But the difficulty, Mr. Chief Justice, is that each man must confess for himself. If a man comes and con-

fesses before the governor, that is all very well; but for him to come and report that two or three or four or ten have confessed to doing something else is not competent to be given in evidence and that is what is proposed here.

Mr. SMITH. Do I understand the gentleman to say that any declarations of members of the klan as to outrages they participated in are admissible.

Mr. GRAHAM. No, sir.

Mr. CHIEF JUSTICE. The presiding officer has decided that anything communicated while the organization was in existence is competent, if it was in furtherance of the common design; and he decides that you may ask, so far as the purposes of the organizations are concerned, what was told the witness by the head chief in Guilford county.

Mr. MERRIMON. I understand that that comes within the ruling made by the senate on the question that was asked Senator Gilmer.

The CHIEF JUSTICE. The presiding officer understood that the decision of the senate was that they would not go into acts done outside of the counties of Alamance and Caswell. The purpose now is to ask as to the object of this organization.

Mr. MERRIMON. The question that was put to Senator Gilmer was whether he knew of any secret organizations in the county of Guilford.

The CHIEF JUSTICE. At the time the question was not competent because they had not proved any connection with the organization in the county of Alamance.

Mr. MERRIMON. He was asked if he knew of any secret organizations in the county of Guilford and the presiding officer sustained the question; but thereafter the ruling of the senate was asked, and the question was excluded by a vote. Afterwards Senator Gilmer asked permission to answer the question on grounds personal to himself.

Mr. BOYDEN. I suppose, Mr. Chief Justice, that that ruling was made by the senate on the ground that we had proved no connection with these illegal organizations in the

county of Alamance. If we prove that these illegal associations existed in Alamance and extended from Alamance into Guilford and into Currituck and Cherokee, then it will be evidence. I trust that this court will never give a decision that, when we show there was a general organization extending all over the state, and when we show it existed and perpetrated these outrages in Alamance and these other counties, that the evidence we offer is not competent. Surely they cannot have made any such decision as that. The counsel have distinctly admitted, in the arguments made to-day, that when that is established, everything that this organization does in furtherance of the general design in other counties is evidence.

Mr. MERRIMON. The gentleman is mistaken, we admitted no such thing.

Mr. BOYDEN. Then I don't understand the meaning of language.

Mr. MERRIMON. When my friend does not want to understand he does not. When the senator from Guilford, Mr. Gilmer, was being examined, he was asked the question distinctly whether he knew of the existence of these organizations in his county, and the question was objected to and excluded by the action of the court.

Mr. BRAGG. And Mr. Boyden added to the question whether senator Gilmer knew of the existence of these organizations "anywhere." The whole matter was discussed on that occasion, and the gentleman made the same speech that he has been making here to-day.

The CHIEF JUSTICE. What is the question. The discussion has been going on so irregularly that the presiding officer has lost sight of what the question is.

Mr. MERRIMON. The chief justice will remember that I was cross-examining the witness when I was interrupted by the examination of the witness by presiding officer.

Mr. BOYDEN. Mr. Chief Justice, it was not pretended on the arguments on the admission of the question propounded to Senator Gilmer that we had made out what the object was

of this association. We had not then given a particle of testimony. The speech that I then made is not the speech that I now make at all.

Mr. MERRIMON. But you alleged what the object of this association was.

The CHIEF JUSTICE. You will proceed with your cross-examination.

By. Mr. MERRIMON [resuming.]

Q. State whether you were regularly initiated into that concern at all? A. I never was.

Q. Who did you get your information from? A. From J. W. Long.

Q. You said on a former occasion that you were not regularly initiated? A. Yes, sir.

Q. You were a sort of an outside member? A. Yes, sir. I got the signs from him.

By Mr. McCORKLE [resuming.]

Q. You say you attended the meetings? A. Yes, sir.

Q. And was recognized as belonging to the Whith Brotherhood? A. Yes, sir.

Q. And that you knew the objects of the organization as detailed to you by it? A. I don't know as I ever heard the true object of the organization stated.

Q. You know these were the objects that have just been spoken of? A. That is what I was told by those whom I met.

The CHIEF JUSTICE. What question do you propose to ask the witness?

Mr. McCORKLE. The question is, "Do you know, or "have you heard from members of the White Brotherhood "while it was in existence as an organization, of any, and if so, "what acts of violence committed by such members within the "counties of Alamance and Caswell? and if so state them."

The CHIEF JUSTICE. The presiding officer thinks the question is competent.

Mr. Manager SPARROW. Mr. Chief Justice, although we

have not a right to ask it, we would like to have the sense of the senate on this question.

Senator EDWARDS. As it is desired by the counsel that the sense of the senate shall be taken, I ask that it be done.

A sufficient number seconded the call.

Mr. GRAHAM. I would like to have the question again read.

The clerk read the question in the words following: "Do "you know, or have you heard from members of the White "Brotherhood while it was in existence as an organization, of "any, and if so, what acts of violence committed by such mem-"bers within the counties of Alamance and Caswell? If so, "state them."

The CHIEF JUSTICE. The pending question is whether the interrogatory which has been read shall be allowed to be put to the witness. The clerk will call the roll.

The CLERK proceeded to call the roll of senators on the question of admitting the interrogatory, and it was decided in the affirmative by the following vote:

Those who voted in the affirmative are:

Messrs. Allen, Barnett, Beasley, Bellamy, Brogden, Cook, Cowles, Currie, Dargan, Edwards, Eppes, Flemming, Flythe, Hawkins, Latham, Lehman, Linney, Love, Manney, Moore, Olds, Price, Robbins, of Davidson, Robbins, of Rowan, Speed, Waddell, Warren and Whiteside—28.

Those who voted in the negative are:

Messrs. Adams, Albright, Battle, Crowell, Gilmer, Graham of Alamance, Jones, Merrimon, Norment, Skinner, Troy and Worth—12.

Q. Go on and state whether, while the organization existed in Alamance county, you heard any of the members speak of having whipped anybody in the county, and if so, state all about it, and who they were? A. I don't remember as to that. I have heard it spoken of—whipping being done, but I don't remember as to hearing them say that they saw any whip-

ping outside of the one case I have already spoken of in Shal low Ford.

Q. I ask you if you have not heard members of the organi zation in Alamance county speak of other members of the or ganization in that county whipping persons?

Mr. GRAHAM. I think that the witness must give th names.

Mr. McCORKLE. Yes, I mean give the names.

A. I don't remember.

Q. You say you never heard any members of the organiza tion in Alamance county speak of any outrages they com mitted, except on Daniel Jordan? A. I have no doubt bu I have heard them spoken of, but as to who, has passed fron my memory.

Q. Did you hear of the whipping of William Long? A Yes, sir, I heard of that.

Mr. GRAHAM. I submit that the witness should not b led by the questions.

Mr. McCORKLE. I think the court in its decision ha stated that we may put the questions in that form.

The CHIEF JUSTICE. The presiding officer thinks th counsel have a right to put the question in that way under th circumstances as to who it was who whipped him.

A. I think it was Daniel Whitesell. He was one of the party—William Smith was another. Then there were th Lowe boys engaged in that and Peter Sommers. That is abou all I recollect. That does not include a number of others.

Q. You say there were more? A. Yes, sir.

Q. I ask you if you have not heard them speak of burning the school house of Daniel Long? A. Yes, sir, I have heard of that.

Q. Give the names of those parties? A. I understood them to be John Long and Thomas Gray.

Mr. GRAHAM. They were not White Brotherhood men?

Mr. BOYDEN. Long was.

Mr. GRAHAM. Do you refer to the Worth school-house that was burned?

Mr. McCORKLE. No; Long's school house.

The WITNESS. I thought it was Worth's school-house that you meant.

Q. That is the one you referred to? A. Yes, sir.

Q. You state that John Long and Thomas Gray burned that? A. Yes, sir, so I understood.

Q. Were you informed whether the burning was done by order of a camp? A. I don't know as Long ever told me it was done by order or whether they did it voluntarily or how; I don't remember as he expressed himself. He told me that he and Gray did it, or that Gray did it and he was present. I asked Gray what he did it for, and he said, "It might have been done by order of a camp," to the best of my recollection.

Q. I ask if John W. Long told you that it was ordered by J. T. Trollinger, the chief of a camp. A. I don't remember that he told me that.

Mr. Manager SPARROW. Certainly your questions are very leading.

Mr. McCORKLE. The court has decided that we may ask leading questions.

Mr. Manager SPARROW. I must confess I was not aware of that.

Q. What answer do you make? A. I think I have heard Long say, though I am not positive as to that—I think he testified to that here

The CHIEF JUSTICE. You need not state what Long said here.

Q. You say, then, you think you heard Long say so? A. I don't remember as to that whether I heard Long say so that Trollinger had ordered it or not. I do not know that he said Trollinger did not order it, and I don't remember that he said he did order it done.

Q. Did you ever hear any member of the organization stat

how many members there were in the county of Alamance during this period? A. I have heard flying reports.

Mr. Manager SPARROW. Wait a moment.

Mr. BRAGG. We object to that, Mr. Chief Justice. This is what I thought the gentlemen were endeavoring to accomplish some time ago, to give hearsay testimony before this court, here a little and there a little—mere idle rumors. I ask the gentleman to reduce his question to writing.

The counsel reduced his question to writing which was read by the clerk in the words following:

"Have you ever heard from any member of the White "Brotherhood in Alamance county, how many persons be- "longed to said order in said county during its organization "therein.

Mr. BRAGG. I submit, Mr. Chief Justice, that if this question can be admitted we may as well ask for any hearsay in the county. I thought I saw a few moments ago the direction which this course of evidence was taking with all due deference to the ruling made by the court, upon the objection which we made. This is a still further departure. What has this to do with a common design to commit crime, for it is upon that ground that this evidence is sought to be introduced? Upon no other ground can it be introduced at all. I suppose it will be said that if it should be proven that there was a large number of members it would be an encouragement to go in and commit these illegal acts, So I suppose any other act that anybody might imagine would be equally competent, and that the mere declarations which any one said in the order would be admissible if this is. I do not know, Mr. Chief Justice, when this thing is to stop if this kind of evidence is to be received. I shall not debate the matter. I think the court can see where it is tending. What is to be the result? It is to overrule the decision which has been heretofore made when the question was asked Senator Gilmer by the gentleman on the other side—a complete overturning of a determination of this court. I submit that the

court will not make any further departure and that the question will not be allowed.

Mr. McCORKLE. Mr. Chief Justice, the pertinency of the question is this: The defense set up is that there was a large body of men organized in the county of Alamance who set at defiance the laws of the land, who were taking the law into their own hands and inflicting punishment upon unoffending citizens. We propose for the purpose of ascertaining the purpose of this organization to show that it was not confined to one single little neighborhood—that it does not embrace only fifty or a hundred men but that it embraces a majority of the white voters of the county of Alamance. If we show that it will be pertinent in this point of view that the existence of an organization in the county of Alamance embracing eleven hundred of its voters who had conspired together to take the law into their own hands, shows such a state of things in that county which comes within the very language of the answer of the respondent when he says that the civil authorities were powerless to administer the law.

Mr. MERRIMON. Mr. Chief Justice, the allegation is that the respondent falsely proclaimed the county of Alamance in insurrection and he denies that. He says there was insurrection and whatever evidence tends to show insurrection is competent, and no other evidence is competent for this is the issue before this court.

Sir, a great deal of evidence has been introduced here that is very loose and general in its character in support of the respondent's answers—averments material and immaterial—but we insist he should be limited to the issue What has this witness deposed? He has not deposed to any act of insurrection. Take the strongest possible view of the testimony which has been given by the witness and its hows simply a vigilence committee in the county of Alamance. It is manifest that it grew out of a want of confidence in the judicial tribunals of that county, for the witness says that the object of the order was where a crime had been perpetrated and had

not been punished by law, and it appeared to these men in these camps that such a party was certainly guilty, they would inflict a punishment.

Now they propose to show another fact, to wit: the number in that organization, and how? By asking the witness whether he knew anything about the matter? Not a word of it By asking of some chief who might know about it? Not a word of it. But they ask for mere rumor. It seems to me it would be just as competent to ask if he had heard any member of the White Brotherhood in Guilford or Wake, or anywhere else, and outside of the county of Alamance, if he knew how many members there were in that brotherhood in the county of Alamance. It is putting in mere rumor. It may be that they may ask the witness if he knows how many there were, but they ask him if he ever heard any of the brotherhood say how many there were, without asking whether the informant knew anything about it.

Mr. CONIGLAND. I am very well aware, Mr. Chief Justice, that I ought not to arise to a discussion of any point of evidence because I do not hear the arguments either *pro* or *con.*, but I understand the question that is asked now is this, "Did you hear any one of the members say how many belonged to the organization in Alamance county," and that the objection is raised to the question because it calls for hearsay evidence.

The question arises, sir, whether it is proper for the respondent to prove the numbers belonging to that organization in Alamance or Caswell. I think it will be admitted by all that it is proper and even essential in behalf of the respondent to prove the number of persons in those associations. But how is that to be ascertained? For if the confessions of parties are not admissible to ascertain it, there are no means known to the law. I suppose, sir, that under the objection we could only prove membership by bringing A B C and D, and ask each one to say whether he was or was not a member of the society. If we have got to prove by each person to ascertain the

number that belongs to it, it practically excludes all evidence upon that point. I submit, sir, that that is not hearsay evidence as it is generally understood. The only evidence available for the purpose of proving the fact is what the members themselves say, who are supposed to know the extent of the organization.

Mr. GRAHAM. Mr. Chief Justice, the witness himself has stated that he was not a regular member of the association, that he has had very little to do with it, having attended the meetings of only one camp, and it is proposed to ask him what he has heard from the members of the organization as to the numbers in the county. Certainly it is only hearsay, and very unreliable hearsay at that. It is mere rumor and talk, and is clearly inadmissible.

Mr. SMITH. I desire to call to the attention of the court sections 100 and 101, volume I, of Greenleaf on Evidence. I read the extract in the words following:

"Before we proceed any further in the discussion of this "branch of evidence, it will be proper to *distinguish* more "clearly between *hearsay evidence* and that which is deemed "*original*. For it does not follow because the writing or "words in question are those of a third person not under oath, "that therefore they are to be considered as hearsay. On the "contrary, it happens in many cases that the very fact in con-"troversy is whether such things were written or spoken, and "not whether they were true; and in other cases such lan-"guage or statements, whether written or spoken, may be the "natural or inseparable concomitants of the principal fact in "controversy? In such cases it is obvious that the writings "or words are not within the meaning of hearsay, but are ori-"ginal and independent facts, admissible in proof of the issue.

"Thus, where the question is whether the party acted pru-"dently, wisely, or in good faith, the *information* on which he "acted, whether true or false, is original and material evidence. "This is often illustrated in actions for malicious prosecution, "and also in cases of agency and of trusts. So, also, *letters* and

"*conversations* addressed to a person whose sanity is the fact "in question, being connected in evidence to show whether he "was insane or not. The *replies* given to inquiries made at "the residence of an absent witness, or at the dwelling-house "of a bankrupt, denying that he was at home, are also original "evidence. In these and the like cases it is not necessary to "whom the inquiries were addressed, since their testimony "could add nothing to the credibility of the fact of the denial, "which is the only fact that is material. This doctrine applies "to all other communications, wherever the fact that such com-"munication was made, and not its truth or falsity, is the point "in controversy. Upon the same principle it is considered that "evidence of *general reputation*, *reputed ownership*, *public ru-"mor*, *general notoriety*, and the like, though composed of the "speech of third persons not under oath, is original evidence, "and not hearsay, the subject of inquiry being the concurrence "of many voices to the same fact."

The inquiry before the court is as to whether the respondent acted in good faith with an honest purpose to execute the Shoffner act. He says that he used the powers which were conferred upon him by that act, and did so in good faith and honestly with the view of suppressing crime? Surely, then, sir, the extent of that organization, and it is the means of subsidizing the regular administration of justice in that county, communicated to the respondent are very material elements to justify or excuse him in the exercise of the extraordinary power which he sets forth in his answer that there was a majority of the white voters of that county connected with one or the other of these secret organizations. He makes his defense consist in that fact, that the minority of the voters were powerless to arrest the progress of this organization which had nearly paralyzed the administration of justice and made it necessary for him to fall baek upon the military under the power conferred upon him by the Shoffner act. Can it not be permitted to show that it was understood by the members of the organization themselves that they numbered eleven hundred strong,

with a view of showing the motives which led the executive to take the course he did? It seems to me that the evidence is proper, and is the only means to get at the fact, and that it is proper to be heard, in order that the court may judge whether, under all the circumstances of the case, the respondent did intend to subvert the constitution and laws of the state, or that he acted from corrupt motives by making use of military force. It is proper evidence to my mind as affecting the issue involved in this inquiry.

The CHIEF JUSTICE. The presiding officer decides that the question is not competent. He has no doubt that it is very important for the respondent to prove the members who belonged to this organization but it must be proved in the proper way. It may be that if one of the chief heads of the organization had been heard to say how many belonged to the association in the county of Alamance, it would be competent to go to the court; but this is strictly hearsay evidence. A member with a view of increasing the importance of the organization in the estimation of others may have stated that it was a good deal stronger than it was, and no doubt under the circumstances men would tell large tales about it. The respondent will have to show that the witness has peculiar means of information in order to render his statement admissible. It may be nothing but guess work. If a man should say how many men belonged to his particular klan and that he had learned that by attending the meetings, it might be competent evidence.

By Mr. McCorkle, (resuming.)

Q. How many men did you say belonged to the camp that you acted with? A. You mean the camp at Shallow Ford?

Q. Yes, sir. A. I do not remember how many there were but I think twenty-five or thirty, it may be more and it may be not so many, but it was about that number.

Q. I ask if you didn't give information to counsel that there were a hundred in that camp?

Mr. Manager SPARROW. That is objected to.

A. I did not say in that camp. I said that in the township I thought there were a hundred who belonged to the White Brotherhood.

Q. How many townships are there in Alamance county? A. I do not know exactly how many.

Q. How many camps are there in the county? A. I don't know that, I never heard of more than camp No. 10. There was said to be ten.

Mr. GRAHAM. We object to that as a matter of hearsay.

The WITNESS. I do not know that there were ten.

Q. [By the Chief Justice.] Did that statement come from a member who professed to know how many there were? A. Yes, sir, I have heard that from men who claimed to know that there were ten.

Q. How many have you ever been in beside the one you have spoken of? A. I never met in any other camp. I have met in that camp on different occasions but no other camp than that.

Q. What did you say about meeting these others on other occasions? A. I have met in that camp on different occasions but I never met in any other camp.

Q. How many times did you meet there? A. I do not remember exactly how many.

Q. Be good enough to state where you met? A. Over at at Shallow ford church or thereabouts—twice I remember.

Q. Did you always meet in the church? A. No, sir, we never met in there at all.

Q. Where did you meet? A. On one occasion near the spring and on another occasion a little southwest of the church.

Q. In the woods? A. Yes, sir.

Q. What time of the day did you meet? A. We met about nine o'clock at night as well as I remember.

Q. Were your meetings always at night? A. Yes, sir, as far as I know they were.

Q. State whether they met in disguise? They didn't. They were disguised after the meeting.

Q. Why did you use disguses? A. They used them in initiating and whipping and so on.

Q. Did this camp to which you refer do any whippings except the case you referred to, that of Daniel Jordan? A. Daniel Jordan and Bill Long. I don't remember as to their whipping anybody else.

Q. Were any of the members of your camp concerned in the burning of Worth's school house, that you know of? A. No, sir.

Q. Were any concerned in the whipping of Corliss? A. Not that I know of.

Q. Did any of your camp go into Orange or other counties to inflict outrages? A. Never that I heard of.

Q. I understood you to say you were never in any of the camps except the one you belonged to? I never was in the county of Alamance.

Q. Do you know who were the chiefs in the different camps in that county? A. I do not of my own knowledge.

Q. Do you know from any statement that any of the chiefs made to you or other members? A. I have heard some of them but I don't know of all.

Q. Give the names of any of the chiefs of any of these camps? A. George Anthoney was one.

Q. He was the chief of what camp? A. I do not remember what his number was. Faucett was a chief, but I do not remember what camp.

Q. Job Faucett? A. Job Faucett, I believe.

Q. Do you recollect the number of the camp he was chief of? A. No, sir, I am not positive about it.

Q. Do you know any of the chiefs of the other camps? A. I do not know that I do.

Q. Do you know Jacob A. Long who was chief of another?

Mr. Manager SPARROW. I think the cousel had better read the witness over a list.

Mr. McCORKLE. I have been allowed to ask leading questions upon this point.

Q. I ask whether Jacob A. Long was chief of any of the camps? A. I have always understood that he was chief of the county.

Q. Do you know the names of any other chiefs? A. Not to my recollection at present.

Q. Do you know anything about Albert Murray? A. I do not.

Q. Do you know that Jasper N. Wood was chief of a camp? A. I do not.

Q. Do you know whether David A. Mebane was? A. I do not.

Q. Or William Stockard? A. I do not.

Q. Do you know whether John Durham was? A. No, sir, I do not know.

Q. You only know these three that you speak of? A. I do not remember as to any more.

Q. Can you give the names of any officers belonging to the camps other than the camp to which you belonged besides the chief? A. I do not know that I can. I do not recollect ever hearing them called. I may have heard them, but I do not remember.

*Cross-Examination.*

By Mr. MERRIMON.

Q. What did you understand Jordan was whipped for? A. Stealing old man Cable's hat and washpan.

Mr. McCORKLE. Will the counsel give way for one moment for me to ask upon a point which I had forgotten?

Mr. MERRIMON. Certainly.

*Direct-Examination resumed.*

By Mr. McCORKLE.

Q. Have you ever seen Jerry Albright with disguises on? A. Yes, sir.

Q. When and where? A. I saw him, but I cannot tell you now as to the date.

Mr. GRAHAM. I don't think that that question was asked Jerry Albright. He was inquired whether he had not had a conversation with a man named Curtis in the presence of two ladies of the name of Mebane, but I do not think he was asked as to whether he had ever worn disguises.

Q. Will you state what kind of disguises were worn by these parties when they went out to whip people? A. They wore a large white gown with a cap over their heads, around their entire person.

Q. Any horns about it? A. Yes, sir, some of them had, and some of them hadn't. Some of them were muleys.

Q. How was the front part of the face fixed? A. Some of them had their disguises trimmed with red about the eyes and nose and mouth, as near as I can tell you.

Q. That you say was their usual disguise? A. Yes, sir.

Q. Where was it you saw Albright? A. I saw him between Dick Baldwin's and Joel Tickle's.

Q. Was it the day time or night? A. The night.

Q. What time in the night? A. Ten o'clock I suppose, or about that.

Q. Was he alone, or with others? A. With others.

Q. How many were with him? A. I don't know, some half a dozen.

Q. Were they all disguised? A. I don't remember whether they were all disguised or not.

Q. Were they riding or on foot? A. Some were on foot, and some on horse.

Q. State whether the horses were disguised? A. They were not.

Q. Who were present there with Jerry Albright? A. I don't know that I can tell them all. I think Jacob Whitesell and Daniel Whitesell and George Gerringer. I don't remember as to further names to be positive. Julius Summers I think was there.

Q. What camp was it you saw Jerry Albright in? A. It neither had a name or number that I know of. This was the

same camp I speak of made up around Shallow Ford meeting house.

Q. The same one that you were in? A. Yes, sir, it was a detachment from that I reckon.

Q. Did I understand you to say that the only decrees of that camp to which you belonged was the whipping of Daniel Jordan? A. Daniel Jordon and Bill Long.

Q. They were the only two? A. I don't remember any more whippings. I think the camp from mere curiosity scared a man by the name of Norfolk Malone.

Q. What did they do to him? A. I don't think they hurt him at all.

Q. Tell what they did? A. I don't know—I was not there.

Q. Did you hear any of them say what they did? A. Yes, sir, I heard them speak about it, but I don't know as I could tell you precisely what they did.

Q. 1 don't want it precisely, but I want to know what they said and did? A. They said they whipped him a little, but not to hurt him. I heard Malone say that they whipped him, but did not hurt him.

Q. What did they say they whipped him with? A. With hickories.

Q. What time of night? A. I don't know.

Q. Did they say they took him out of bed and whipped him? A. No, sir, I think not. I am satisfied they did not say that. I don't think they did.

Q. You think they whipped him before he went to bed? A. Yes, sir, they went the early part of the night.

Q. How many were in that lot? A. Have heard Malone say half a dozen times, but have forgotten, but I think it was about ten.

Q, Did you hear any of the members say who were there? A. Yes. sir.

Q. Give their names? A. The persons that were there were Joel Swayne, Levi Michael, Rankin Lowe, William Lowe, and

Joseph Summers I think was another one. I don't remember the others. I think Peter Summers was another one.

Q. Can you think of any other whippings or scarings, or tearing down of houses, or any other violations of law by these fellows? A. No, sir, I don't think there was ever a house torn down by them at all. There were no houses torn down in that immediate section of the country at all.

Q. Was anybody else whipped about there? A. No. sir, I don't think there was. I heard of some others whipped, but I do not know.

Q. Did you hear from the members? A. Not from anybody who did the whipping.

Q. Did you hear it from any member belonging to the Shallow Ford crowd? A. I don't think it was done by that camp. They whipped a man named Carter Cassey near Gibsonville, but I don't think that was done by any of that camp.

Q. Did Dr. Cummings belong to any camp? A. I think he claimed to belong to a camp in Guilford.

Q. Did he live in Guilford? A. No, sir, he lived just in Alamance, not more than fifty yards.

Q. He lives near the line? A. Yes, sir.

Q. What person did you hear had whipped that man Cassey? A. I don't remember of hearing anybody say who were concerned in whipping him, or if any man did say I have no recollection of it.

Q. Did you hear any member of the camp say that the whipping had been done by the members of the camp? A. No, sir, I heard members of the camp say that it had been done but they didn't say who did it, nor what camp did it.

Q. Did they say it had been done by the Brotherhood? A. It was generally expressed that it was done by the Kuklux.

Q. You heard the members of the organization say it was done by the Kuklux.

Mr. GRAHAM. The witness says he knew of no organization except the White Brotherhood?

A. I knew of no other.

Q. The organization you have referred to was called what A. The White Brotherhood.

Q. How was it generally known to the world? A. It wa known as the Kuklux generally.

Q. [By Mr. Graham.] The others were known in the sam way, were they not? A. Yes, sir, I guess so, the others wer a little further along than I got.

Q. [By the Chief Justice.] The White Brotherhood an the Kuklux you considered to be the same? A. Yes, sir.

Q. Refresh your recollection, and see if you can think o any other outrages that were committed, which you have hear any members of the order speak of? A. I do not remembe that I do.

Q. Did you hear any of the members speak of having whip ped Captain Euliss, or his wife? A. No, sir, Captain Eulis was never whipped in the county, I think, or his wife either

Q. I mean Corliss? A. No, sir, I don't know anything about that whipping. This was done before I moved into th county, I think.

Q. Did you hear any of them say that they knew anything about driving away the postmaster from Company Shops? A No, sir.

Q. Describe to the court the whips that they used, if ther was any peculiarity about them? A. Nothing more than com mon hickories—just chinquepins that they cut.

Q. They cut them as occasion required—they didn't kee them on hand? A. It they did I did not know anything about it.

Q. I ask you if the organization in Alamance county wa not the same that was in Caswell? A. I did not know th men in Caswell.

Q. Was not the order the same everywhere in its objects A. I don't know anything about that, but I understood it t be the same.

*Cross-Examination.*

By Mr. Merrimon.

Q. What did you whip Jordan for? A. Jordan was whipped for stealing Cable's hat and washpan.

Q. Who was Cable? A. He was a citizen of Alamance.

Q. What sort of a man is Mr. Cable—a young man or an old man? A. An old man, I reckon about sixty years old.

Q. When was that? A. That I think was in 1869.

Q. What time in 1869? A. The fall of the year I think.

Q. What is Jordan's reputation there? A. I don't know.

Q. What was Long whipped for?

The CHIEF JUSTICE. The witness will only speak from his own knowledge.

A. He was whipped for breaking in Daniel Patton's house and stealing some clothes.

Q. When was that? A. That was the same year.

Q. 1869? A. Yes, sir.

Q. What part of the year? A. In the fall.

Q. What was Cassey whipped for? A. I don't know, I have heard him spoken of as a man of bad character.

Q. What was the character of Long? A. I don't know.

*Re-direct examination.*

By Mr. McCorkle.

Q. You say that Daniel Jordan was whipped for stealing? A. He was accused of it.

Q. It was charged upon him? A. Yes, sir.

Q. Was there any efforts to indict him in the civil courts? A. None until after he was whipped.

Q. There was no effort? A. None that I know of.

Q. Was Long indicted afterwards? A. Yes, sir.

Q. Was he punished for it? A. He was taken before the magistrate's court and then it was compromised by the negro paying the cost.

Q. That was after the whipping? A. Yes, sir.

Q. Long you say was whipped for tearing down somebody's house? A. For breaking into a house—he was accused of it. I do not know whether he did break in or not.

Q. Had there ever been any efforts made to indict him before? A. None that I know of.

Q. Were any efforts made afterwards? A. None that I know of.

Q. That is the reason why these men told you they whipped him that he had been stealing? A. Yes, sir.

Senator ROBBINS, of Rowan. Mr. Chief Justice, I would like to have the witness asked the following question: "Was "it any part of the design or purpose of the secret organization "of which you have been speaking to subvert or overthrow "the existing authorities of the state or federal government, "either by secret conspiracy or open force?"

Q. Answer that question? A. If so it was not to my knowledge.

Q. I will ask you if one of the objects of the organizations was not to prevent colored people from enjoying their rights under the laws? A. If it was I did not know it.

Senator JONES. I desire, Mr. Chief Justice, to have permission to enter on the record my reason for the vote I gave upon the question of admitting testimony this morning.

The CHIEF JUSTICE put the question on allowing Senator Jones to file his reason as requested, and it was decided in the affirmative.

Senator JONES filed his reasons with the clerk in the following words:

"It was proposed to ask the witness if he had heard from any of his alleged co.conspirators that they had whipped a certain negro.

"The rule of law making the declarations of one conspirator the declaration of a co-conspirator is one affecting the conspirators alone, and arises from the fact that the original unlawful combination has so identified them that they are not only affected by every guilty act done in prosecution of the conspiracy but even by the admission of a co-conspirator; but this rule applies to the establishment of a particular allegation as against a conspirator alone, and cannot be applied to establish

the same fact in another proceeding. For example, suppose there was an act on our statute book providing that any citizen who had been whipt or distrained of his liberty might sue and recover from the county the sum of one thousand dollars, and an action should be brought to recover that sum under the statute, even after proof of a conspiracy existing in that county to whip and imprison, I cannot believe that the declaration of one of the conspirators could be admitted to establish the fact as against the county. The existence of the conspiracy would be some evidence tending to establish the fact but the declaration of a conspirator in such a case would necessarily be excluded by the ordinary rule regarding hearsay testimony. So I could not regard this testimony as competent to establish the particular fact of the whipping in a proceeding of this character in no way affecting any of the conspirators.

The hour of two o'clock and thirty minutes having arrived the court adjourned to meet to-morrow at eleven o'clock, a. m.

## TWENTY-FIFTH DAY.

SENATE CHAMBER, February 28th, 1871.

The COURT met at eleven o'clock, pursuant to adjournment, Hon. Richmond M. Pearson, Chief Justice of the Supreme Court, in the chair.

The proceedings were opened by proclamation made in due form by the doorkeeper.

The CLERK proceeded to call the roll of senators when the following gentlemen were found to be present:

Messrs. Adams, Albright, Allen, Barnett, Battle, Beasley, Bellamy, Brogden, Cook, Council, Cowles, Crowell, Currie, Dargan, Edwards, Eppes, Flemming, Flythe, Gilmer, Graham, of Alamance, Graham, of Orange, Hawkins, Jones, Latham, Lehman, Linney, Love, Mauney, Merrimon, Moore, Murphy, Norment, Olds, Price, Robbins, of Davidson, Robbins, of Rowan, Skinner, Troy, Waddell, Warren, Whiteside, Worth—42.

Senator WARREN. I move to dispense with the reading of the journal of yesterday.

The CHIEF JUSTICE put the question on the motion of Senator Warren, and it was decided in the affirmative.

MARY HOLT, (colored) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BOYDEN.

Q. What is your name? A. Mary Holt.

Q. What is your husband's name? A. Henry Holt.

Q. Where do you live? A. I live in Graham.

Q. Do you recollect the night that Outlaw was hung? A. Yes, sir.

Q. State what took place at your house that night, if anything? A. They broke in my house and asked for Henry, and I told them he was not at home.

Q. Who broke in? A. The Kuklux they call them.

Q. How were they dressed? A. They were dresssed in white and had gowns on. They asked for Henry Holt.

Q. Could you see their faces? A. No, sir, I didn't notice their faces.

Q. How many came in? A. I don't know, sir; I cannot tell you. I was so frightened that I didn't notice how many were in the house.

Q. They asked for Henry Holt—what did you tell them? A. I told them he wasn't there.

Q. What then? A. Then they asked me where he was. I told them I didn't know. Some of them allowed I did and I would have to tell. I told them I couldn't tell, for I didn't know where he was.

Q. Go on and tell all they did. A. They said if I didn't tell where he was they would shoot me. I told them they would have to shoot, for I couldn't tell them where he was. Some of them said I would have to get up and go with them, and I asked them if I could take my baby with me. One of them said no, to lie still, that I needn't go.

Q. What else did they do? Tell everything they did. A. They didn't say anything more, but asked if he stayed there all night, and I told them not often, sometimes he did and sometimes he didn't, and they told me when they started out to tell him that if he was not gone from there the next Saturday night, and left Graham he would be gone up.

Q. What else did they do? A. Then they went out and came back again and asked me for a piece of rope.

Q. What then? A. I told them there wasn't none there only what was in the bed, and they asked me which bed the cord was in. I told them it was in the bed I was lying in, and they told me to get up then, they would have to have a piece of it; so I got out of bed and they cut a piece out of the bed-cord.

Q. How long a piece? A. They cut from the head end to the foot.

Q. The whole length of the beadstead? A. Yes, sir.

Q. What sort of a cord was it? A. It was a hemp cord.

Q. How thick? A. Well, it was about the size of my middle finger, as near as I can guess at it.

Q. A common sized bed cord? A. Yes, sir.

Q. Did they take it away? A. Yes, sir, they took it away.

Q. Tell us whether they had any arms—guns, or swords or anything? A. Yes, sir, one had a sword and one had a gun.

Q. What did they do with them? A. I don't know, sir—I cannot tell that. They just had them there, and said if I didn't tell where Henry was they were going to shoot me—that is all I know.

Q. What did they do with the gun when they said that—anything? A. No, sir, they didn't do anything at all.

Q. Didn't present it at you? A. No, sir.

Q. Do you know anything about Outlaw being hung that night? A. No, sir, I don't know anything about it.

Q. Did you see him the next morning? A. No, sir, I have never seen him.

Q. Never saw him afterwards? A. No, sir.

Q. Didn't see the rope? A. No, sir, I never went out the next morning.

Q. Did you hear any noise that night, only at your house? A. No, sir, I never heard it at all—I was asleep; but Henry heard it.

Q. You cannot tell what Henry heard. You didn't hear any noise till they woke you up? A. No, sir, I didn't hear anything till they woke me up.

Q. Can you tell whether they were riding or walking? A. No, sir.

Q. You can't tell how many? A. No, sir.

Q. State the best impression you have as to the number. A. Well, I didn't see only what was in the house.

Q. How many do you think came in? A. Well, I don't know, sir. I cannot tell that; it seemed like some five or six.

Q. You say they didn't do anything to you or your child, only to tell you to get up? A. No, sir.

Q. They said you would have to go with them, but you told them you had a baby and then they gave it up? A. Yes, sir.

*Cross-Examination waived.*

MATILDA PURYEAR, (colored) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BOYDEN.

Q. What is your name? A. Matilda Puryear.

Q. Where do you live? A. In Alamance.

Q. What was your husband's name? A. William Puryear.

Q. Were you at home the night he was taken off? A. Yes, sir, I was at home.

Q. Tell all you know about that. Begin at it in your own way. A. I was there when the company came in there, betwixt midnight and day, and took him out. They just pushed open the door and came in. I was asleep, and they woke me when they came in. He called me when they came in to come to him, and I started to him. One of them ran up to me and told me, "G—d d—n you, stand back," or he would cut my head off; and they took him out of doors and commenced talking to him.

Q. State how many there were, and how they were dressed. A. Well, they were all dressed off in white, and there were five of them.

Q. How were their heads and faces? A. They had black and red fixed on their heads.

Q. In what condition did they take him out? A. They took him out with one shoe on and no hat.

Q. When was that? A. This last March.

Q. Do you know what time in March? A. No, sir, I do not know.

Q. There were only about five of them, you think? A. Yes, sir—five were all I saw.

Q. All dressed in that way? A. Yes, sir.

Q. What did your husband say when they took him out? A. Well, I didn't hear him say anything when they were taking him out.

Q. What did they say to him? A. When they came in they told him to come out. One of them says, "Come and go with me." He took him out into the yard, took him out there a right smart bit, and then come in and asked me for his gun.

Q. Then what? A. I told them where it was, and they went and got it. They told me to get up and shut the door, and I got up and went to fasten the door, but they had fastened it outside, and they told me not to open it until the next morning, until sun up.

Q. They fastened you up and left you and your baby in there? A. Yes, sir.

Q. Anybody else there? A. Some little children in there.

Q. How many? A. There were three.

Q. Did you ever see your husband's body afterwards? A. Yes, sir.

Q. When was it that you saw it? A. I don't know what month it was when I saw it, but the wheat was turning right smart, when they took him out.

Q. Took him out of what? A. Out of the water-course.

Q. Where? A. Haw creek.

Q. Whose mill-pond—anybody's? A. Dr. Wilson's mill-pond.

Q. Do you know it was your husband? A. All I went by was the buttons on his clothes, and he didn't have on but one shoe.

Q. The same kind of buttons on his clothes? A. Yes, sir, big brass buttons.

Q. Did you know the shoe? A. Well, it looked like the one I had at the house.

Q. And he left with one shoe, you say? A. Yes, sir, with one she on.

Q. And the dead body when taken out had one shoe on? A. Yes, sir.

Q. And it had just such buttons as your husband had on his coat? A. Yes, sir, just such buttons.

Q. Was the body much decayed? A. Yes, sir, it was all mortified, powerful.

Q. What do you say? A. I say it was near about rotted—his body.

Q. You couldn't recognize him by his face? A. No, sir.

Q. What was the condition of your husband at that time? A. Well, he was near about distracted.

Q. What had been the matter—what made him distracted? do you know? A. No, sir, I don't know. He had been distracted once before.

Q. Do you know whether Puryear was in fear for his life, and did he express to you, just before his death, those apprehensions?

Mr. GRAHAM. Mr. Chief Justice, I object to the question. She does not know when his death took place. The gentleman proposes to go into the conversation had with Puryear while he was living, and how long before his death I suppose is not known to any body. There certainly is no pretence that the statement can be admitted as a dying declaration.

Mr. McCORKLE. I suppose, Mr. Chief Justice, that the presumption would arise, where a party was seen being forcibly dragged out of a house at night and was found a month or so afterwards in a mill pond, that he must have died a short time after the taking out.

The CHIEF JUSTICE. The question is not definite. It does not ask how long before.

Mr. McCORKLE. Well, say within a few days from his being taken from his house. We will amend it.

Mr. GRAHAM. That is equally objectionable.

The CHIEF JUSTICE. But not on that ground. How does the question read now?

Mr. McCORKLE. "Do you know whether Puryear was in "fear for his life, and did he express to you just before he was

"taken from his house on that night, these apprehensions?"

Mr. GRAHAM. It is equally objectionable, Mr. Chief Justice. It is not only leading, but it calls for an expression of apprehensions without calling for conversation. But my main objection is on the ground that it is not competent in any point of view at all, that any conversations between Puryear and this witness are nothing but mere hearsay, and cannot be placed upon the footing of dying declarations, which is the sole ground upon which they can be expected to be introduced.

Mr. McCORKLE. We think, Mr. Chief Justice, that it is competent, at least in this point of view. It is alleged in our defence that these armed bodies of men had inspired the whole county of Alamance with terror; and for the purpose of showing that this feeling did exist amongst the citizens of that county—at least a large portion of them—we propose showing that only a day or two before his final taking off, Puryear expressed apprehensions, and the reasons for those apprehensions, to his wife. It certainly goes to show,—and to confirm the statement made in the respondent's answer, that there was a reign of terror over that whole section of country.

The CHIEF JUSTICE. You do not ask, in your question, whether he stated the ground of his apprehension. The question is too indefinite as it now stands.

Mr. McCORKLE. They would not let us state that. I suppose it would come out in the answer.

Mr. GRAHAM. I move to reject the evidence as incompetent.

Mr. BRAGG. Mr. Chief Justice, whether there was terror inspired throughout the whole community is one thing and that may be proved. But the question here is, how is it to be proved? That is a question which my friend upon the other side did not touch at all. Can the gentleman show any authority in the books for the admission as evidence of the statement of a party, in fear for his life, and who was

shortly afterward killed, as to his fears for his safety? It is purely a matter of hearsay evidence.

Mr. SMITH. Mr. Chief Justice, the consideration suggested a moment ago that we do not ask for the grounds of those apprehensions, the court will see was unnecessary. We first ask if he expressed apprehensions—not what his words were when his apprehensions were expressed. It will be followed by the question, "What did he say, and what were the grounds of those apprehensions?" But at present it is very much like the inquiry, "Do you know the character of the witness, and if so, what is that character?" We ask, "Did he express any fears for his life?" If the witness says he did, then we will be obliged, in order to make the testimony available, to call for all that was said by him relating to it.

In regard to the other difficulty suggested by my brother Bragg, in what situation does it place the court? If it be material to prove that throughout that county there was an apprehension of danger, how are we to get at it except by the expressions of those who felt those apprehensions? How can we prove that there existed a general alarm throughout the county; a general fear of some impending or actual evil, except by the declarations of those who had those feelings? And how are we to get at that, in an individual case, except by ascertaining what were the feelings expressed by an individual man? The principal is well settled, that whenever the bodily or mental feelings and apprehensions become a subject-matter of inquiry and are appropriate to be proved, the manner of proof is by the declarations of the party. If this evidence is relevant, if the existence of apprehensions in the mind of this man is proper evidence to be heard at all, the mode by which we propose to prove it is unobjectionable, because the only way in which it is possible to prove such a state of things, is by the spontaneous acts and declarations of the party. I think, therefore, that there is nothing in the statement of my brother Bragg that we are not adopting the right means of getting at the fact. If the fact is capable of being shown at all, then we think we have

adopted the only proper method of proving the existence of the fact.

The CHIEF JUSTICE. The presiding officer is of opinion that the question is not competent. In his experience he knows of no test of proof in the law except an oath with the privilege of cross-examination and a dying declaration or an admission made against the interest of the person making it. This question does not come under either of these rules. If the the counsel for the respondent had offered to prove an act,—as, that night after night Puryear would go out into the woods and stay there, and in that connection, what he said, as a part of the act, might be competent. The presiding officer does not say how that might be; but here there is no act except a conversation between a man and his wife, and this is ruled to be incompetent.

Mr. BOYDEN. I propose this question.

The CLERK then proceeded to read the question in the words following:

"Was there not a very general feeling of fear in your neigh-
"borhood among the colored people, that they would be whip-
"ped or otherwise outraged by the Kuklux?"

Mr. GRAHAM. I object to that. In the first place it is an exceedingly leading question; in the next place, one that is incompetent anyway.

Mr. BOYDEN. It is one of the allegations in the answer that this great fear existed, and I did suppose it was very clearly proper for us to ask such a question—that it involves one of the very issues we are trying.

The CHIEF JUSTICE. You might alter those words so as to prevent the question from being leading; but even if it were modified in that respect it is not a competent question. The witness is not supposed to know what was the general impression. You can ask for the state of her own mind at the time; but her opinion as to the general condition of feeling at the time is not admissible.

*Examination resumed.*

By Mr. BOYDEN:

Q. Will you state whether you were under any dread of injury before they came there. A. No, sir.

Q. State now how you got out of your house in the morning. You say they fastened the door outside? A. My little boy climbed out of the chimney, and undone the door.

Q. Was there anything tied to your husband's feet when he was taken out of the water? A. Yes, sir, there was a rock to one of them.

Q. How big? A. I don't know, sir, how big. I didn't notice it in particular.

Q. You never saw him after they took him out, till you saw this body? A. No, sir.

Q. Never have seen him since? A. No, sir.

Q. And you are satisfied, from the shoe and the buttons, that that was the body of your husband? A. I went by the buttons and it looked like the shoe at the house.

*Cross Examination.*

By Mr. GRAHAM.

Q. You would not have known him by his person at all? A. No, sir. I only went by his shoe and the buttons.

The CHIEF JUSTICE. You might ask her how they happened to discover the body.

Q. He was found in this mill-pond, you say? A. Yes, sir.

Q. How was he found? A. He was weighted down with the rock when they found him.

Q. Who found him first? A. Some of the neighbors found him by the buzzards.

Q. White boys? A. Yes, sir.

Q. What made them find him, what lead to it? A. They found him by the buzzards.

Q. There had been a freshet in the creek, had there, after he was missing? A. Yes, sir.

Q. Was his body exposed in the water when he was found? I mean, was it out of the water? A. Yes, sir, you could just see a little of it.

Q. How long had you been the wife of this man William Puryear? A. Two years before the surrender.

Q. You had had children before? A. Yes, sir.

Q. Some of them children grown up? A. No, sir.

Q. How large was the oldest? A. I don't know, sir,—about that high, [holding her hand about four feet from the ground.]

Q. A girl or a boy? A. A boy.

Q. You and your husband had on very lived bad terms, hadn't you? A. No, sir, only when he went distracted, he was always mighty good to me only then.

Mr. BOYDEN. I object to that, although I admit that the answer does no harm, it is opening the door as to a quarrel between a man and his wife.

Q. You say he was somewhat distracted about that time? A. Yes, sir.

Q. About the time of his death? A. Yes, sir.

Q. Had you gone and taken a warrant against him, or applied for a warrant against him that day, or a few days before? A. No, sir.

Q. When was it that you applied for a warrant to Mr. Bradshaw? A. I went to Mr. Bradshaw the next morning. He was missing; I couldn't find him.

Q. You had not applied to him for a warrant before that? A. No, sir.

Q. Had he had any quarrel with anybody in the neighborhood shortly before that? A. No, sir, not that I know of.

Q. Did you see the men that came for him, whether they were colored people or white people? A. I couldn't tell whether they were or not.

Q. You couldn't tell whether they were colored or white people that took him out? A. No, sir, I didn't see the faces nor the hands.

Q. Did you go to Graham, or start to Graham to get a peace-warrant sometime before his death? A. No, sir.

Q. Didn't you tell somebody that you did? A. No, sir, never did.

Mr. McCORKLE. Give the time and place, if you think proper to contradict.

Q. Didn't you apply, a very short time before his death, to Mr. Brodshaw for a peace-warrant to bind him to the peace? A. No, sir, I did not.

Q. Did you go for a warrant the next morning after he was missing? A. I saw him that Thursday morning when I hunted for him and couldn't find him. I went to one of the neighbors, a black woman, and she told me to go to Mr. Bradshaw.

Q. I don't care about that. You say you didn't go to Mr. Bradshaw's to get a peace-warrant, before his death? A. No, sir.

Q You never had bound him to the peace before his death? A. No, sir.

Q. How came he in jail? A. His mother did that.

Q. What for? A. Because he was distracted.

Q. He was put in jail for being distracted? A. Yes, sir.

Q. Carried from there to the poor-house? A. Yes, sir.

Q. How long was it before his death? A. Near about two years, when he first went distracted.

Q. How many times was he distracted? A. When they took him off he was distracted.

Q. Wasn't he cursing and making a very great noise the day before he was taken off, or the day before that? A. The day he was taken off he went on powerful.

Q. The day just before the night he was taken off, you say, he went on powerful? A. Yes, sir.

Q. Cursing and raving? A. Yes, sir.

Q. How did he go on?—threatening you, or what? A. No, sir, he was cursing and raving, and he said nobody should touch him—he was a free man.

Q. Could you hear him half a mile? A. Yes, sir, could hear him half a mile or three-quarters of a mile. At any rate, the neighbors heard him.

Q. How long did he keep that up? A. He had been going on that way two weeks.

Q. And that evening before he was taken off in the night he was at it again? A. Yes, sir.

Mr. BOYDEN. I suppose now the door is open for Puryear's declarations?

Mr. GRAHAM. We suppose not. I have been asking about the conduct of Puryear.

Mr. BOYDEN. The counsel have been asking for his declarations for a period of two weeks—about his cursing and swearing and going on terribly.

The CHIEF JUSTICE. You may ask her what he said in "cursing and swearing."

*Re-Direct Examination:*

By Mr. BOYDEN:

Q. He said nobody should touch him? A. Yes, sir; he said nobody should touch him—he was a free man.

Q. Tell us all that he said. A. He said if anybody touched him he would be d—d if he didn't shoot them.

Q. Did he say anything about being afraid of somebody touching him?

Mr. GRAHAM. I object to that as leading.

The WITNESS. He said that evening that he felt uneasy; he was afraid somebody would kill him.

Q. State all he said. A. He said he went to Graham and reported those people. He said he felt uneasy about it.

Q. What people? A. The Johnson boys.

Q. What Johnson boys? A. Dave Johnson and Jim, the widow Johnson's sons.

Q. He had gone and reported them, and he felt uneasy about them? A. Yes, sir.

Q. What did he say about them? A. Well, he went over to Graham——

The CHIEF JUSTICE. No, not what he said at Graham, but what he told you.

Q. What did he tell you? A. He said he had reported

them, and he was uneasy about it. I asked him what made him do it. He said he felt afeared.

Q. [By the Chief Justice.] Was that the raving and swearing that you talked about? A. He was not swearing when he was talking that.

Q. Did he tell you what he had said about the Johnson's up at Graham? A. No, sir, he didn't tell me.

Q. Only that he had reported them? A. Yes sir, that is all he said.

Q. How long was that after Outlaw was hung? A. It was most two weeks.

Q. About two weeks after he was hung? A. Yes, sir, just about two weeks.

*Re-Cross Examination.*

By Mr. GRAHAM:

Q. Did he say in the conversation that he was going to kill Wesley Johnson, a colored man? A. Yes, sir, he said if Wesley fooled with him he would.

Q. While he was cursing in that conversation, he said if Wesley Johnson, a colored man in the neighborhood, fooled with him he would kill him? A. Yes, sir.

CASWELL HOLT, (*colored,*) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BOYDEN:

Q. What is your name? A. Caswell Holt.

Q. How old are you? A. Thirty-six years old.

Q. Where do you live? A. I live at Graham, Alamance.

Q. How long have you lived there? A. I have been living there some over twelve months.

Q. Where did you live before? A. I lived with colonel Jerry Holt two years.

Q. Just tell what was done to you there—all the circumstances, the first time; than the second time, and all about it;—who came and how they were dressed. A. Well, I cannot tell

exactly when the first time was; but anyhow one night, it was in the fall season of the year, I recollect——

Q. State how long ago. A. The first time was about three years ago.

The CHIEF JUSTICE.. Go on and tell all about it now. A. One night I just lay down on the bed—I went up from Mr. Holt's. I was eating supper down there; he boarded me. I lived about a quarter from his house up in an old school house that he had up in the edge of the woods from his house, and I went up there—me and my wife. I had four boys that worked with me about the house. They generally staid down at the house with him ——

Q. [The Chief Justice.] You went up home? A. Yes, sir.

Q. Go on to the whipping. A. I went up home, lay down on the bed; the boys were there and they went down back to the house, and while I was lying there I heard some person come running around the house, and I thought it was the boys that had got scared and came back. I was lying on the bed. I said "Halloa." They said "Halloa, is that you Caswell?"—just so. "Yes, sir." By this time they were in the house—I hadn't the door fastened. They said, "Come out here." Well, they gathered me by the arms and dragged me out of the bed, ran out of doors with me, and commenced choking of me. I says, "Men, don't choke me,"—just so. I did'nt think, you know, that they were going to hurt me, and one struck me—struck me in the eye; then I began to think they were going to hurt me. They tied me, then, and let me up, and the first thing they said then was, they asked me whether I recollected anything about any chickens. I told them I didn't. "Well," he says, "do you recollect anything about any wheat or corn?" I says, "I don't, sir,—nothing but my own; I have got plenty of wheat and corn of my own; I don't know anything about any other but that." "Well," he says, "come on here, go with me." I went with them on, I reckon, about three hundred yards from the house where I was, out into the woods. They then went out and came across a post oak tree that had a straight

limb running out, and he says, "Now do you know how near your time is?" I says, "I don't sir." "Well," he says, "this is your last moment." "Well," says I, "if it is I cant help it." He says, "Do you recollect anything about them chickens now?" I say "I do not, sir." "Do you recollect anything about any wheat or corn?" I says, "I don't sir,—just as I told you at first. I say I don't know anything about any body's but my own." There was one then run up the tree and threw the rope up over the tree, and says, "Draw him up"—just so—"draw him up." And they drew me up. "There, let him down again." He says, "Do you recollect anything about it now?" I says, "I don't, sir; just as I told you at first. I say I don't know anything about it, and I can't tell you anything about it." "Well, draw him up again, it has got to come better than that." They drew me up again and let me down. "Do you recollect now?" I says, "No, sir, I don't." I says, "If I have done anything or said anything, gentlemen, I wish you would please tell me, and if I have I will acknowledge and say that I did it." He says, "That won't do, it must come better. Sit down here." He says, "G—d d—n you, sit down." I sat down and they put my arms over my knees, as I sat down, and run a stick across through on both arms—bucked me, you know—then they all formed in a line before me; the one that talked, (there was one that talked,) he says, "Form a line, men, form a line around here," and they then formed a line behind me and marched around, and all gave me three licks apiece, and they then let me up.

Q. How many of them were there? A. Sixteen men.

Q. Three licks apiece? A. Yes, sir.

Q. Go on? A. They let me up then. "Do you recollect anything about it now?" I says, "I don't sir, just as I told you at first—I don't know anything about it and I cannot tell you anything about it." "Well," he says, "Draw him up." They drew me up there again, and they took this stick that they had me bucked with, and rubbed it up and down my back—

one got at each end of it and rubbed it up and down my back. They let me down, then, and he said, "Now do you recollect anything about it?" I said, "I don't, sir." "Well," he said, "Who are you going to tell this to when you get away from here?" I says, "I don't know, sir, that I am going to tell any person." He says, "You don't think you will tell this to any person?" "No, sir," said I, "I don't." "Well, d—n you, you won't for you won't get the chance of it." "Well," said I, "If I don't get the chance of it, I can't tell it." "Well," he says, "D—n you, will you swear that you won't tell it?" I told him, "Yes, I reckoned I would swear that I wouldn't tell it." He says "You are to leave the county in ten days—we will give you ten days to leave the county." I says, "Gentlemen, I haven't done anything to leave the county for; I don't know why you should want me to leave it." "Well, you have got to leave it now," he says, "Do you be off. I will give you that time to leave, and if you ain't gone we will be to see you in two weeks; and the next time we come we will kill you." I went on then. He told me "To be off now to the house." One run to me and gave me three licks after I started, and I went on into the house. I sent down for Mr. Holt.

Q. Which Holt? A. Col. Jerry Holt—my wife went after him.

Q. You cannot tell what she said? A. And he came up and says, "Cas., what's the matter?" "Well," I says, "a parcel of men came here and took me out and pretty nigh put me to death." "What did they do that for?" "I says, "I couldn't tell you?" He says, "What did they say to you?" "Well, sir, they questioned me about wheat and corn and chickens." He says, "Who?" "Well, I don't know." I says, "Do you know anything about any wheat or corn being stolen in the neighborhood?" He says, "Yes, that is true. My son George has lost wheat and corn ——"

Mr. GRAHAM. I do not think it is worth while to go into this conversation.

Mr. BOYDEN. I don't care anything about it.

Q. Go on. A. That is about all.

Q. Tell us how long you were confined? A. Then I lay there some three or four days—four days—and after a while I began to feel uneasy, you know, about the time they said I was to leave. I got up and started on down to the house. I saw him one day. I met him coming up to the house to see me.

Q. Never mind what he said to you. Did he see you? A. Yes, sir.

Q. And saw your condition? A. Yes, sir, he saw me that night after I was whipped, and I asked him what he thought that I had best do, leave or stay.

Mr. GRAHAM. You need not speak of the conversation.

Q. State how badly you were whipped and how long you were confined before you were able to work —— A. I was not able to work under three weeks from the whipping, to do any good. Well, it went on after I got able to work. I still continued on with him that year, until two weeks before christmas—this last christmas gone it was a year ago,—they come one Saturday night; they come to the house and they asked me to open the door ——

Q. Before you get to that, I want you to tell what condition thesemen were in that came to whip you the first time? A. Well, sir, all dressed in white—disguised; had on white gowns.

Q. You haven't told how many there were? A. I told you at first sixteen.

Q. All disguised? A. Yes, sir.

Q. Disguised how? A. In white; all had on gowns.

Q. How about their faces? A. All their heads was all over white; you couldn't see their faces.

Q. Any places about the eyes and mouth? A. Yes, sir, of course they had places to see out.

Q. What marks were there about them—any? A. Marks?

Q. Any different colors? A. Well, there were different colors, sort of black around the eyes and nose and mouth.

Q. Go on to the next time? A. Well, sir, these men came

about twelve months afterwards. They came there one Saturday night.

Q. State when that last time was—how long ago? A. A long this last christmas was twelve months ago—two weeks before christmas.

Q. About twelve months between the two whippings? A. Yes, sir.

Mr. GRAHAM. He stated it as three years in the beginning.

The WITNESS. I said it was three years since I was whipped the first time.

Q. Go on. A. Then they asked me to open the door.

Q. Where were you living then? You have not told. A. I was living at the same place, sir, where I was the first time. They asked me to open the door and I told them "No, sir, I didn't open it unless they told me their buusiness, what they wanted and who they were." Well, they said, "G—d d—n you, open the door." I says, "No, sir, I won't do it." He says, "Strike up a light in there first before you open it." I says, "I won't do that, either, sir." This time I went to the door, and I had an axe sitting at the door, and one of my boys was there, and I went to reach him the axe, and I had a knife in this hand, [the left hand] and he says, again, "Open the door." I says, "I shan't do it, sir." One says, "Blow his brains out"—just so—"blow his brins out." As quick as he said that they all fired at the door, and they just shot me. I clapped my hand in here, [indicating the breast] and said, "There, I am shot." And that boy of mine, he knew there were some loose planks in the floor, and he jerked up two of those planks, and all my family run under the house except my three little chiidren and myself. They took rails and bursted in the door. One of them said, when he come in "G—d d—n you, if you had opened that door you wouldn't have been shot." I says, "I didn't open it, then." Then he says, "What are you doing with this knife?" I says, "I had it, sir,"—and he jerked it out of my hand and

put it here to my breast and then said, "G—d d—n you, I have a mind to run you through your d—d heart." Another says, "Let him alone, he is shot." "He isn't shot," he says. "He is shot," said the other, and he jerked open my shirt bosom, and says, "There you see he is shot." He says, "Oh, yes." Then he said, "G—d d—n you, you said you was not afraid of any Kuklux in the county." I says, "I didn't say that, sir. If you heard that you heard it from somebody else besides me. I did'nt say it." He says, "Are you afraid of them now?" I says, "I have got nothing to do with you, sir." He says, "Do you know me?" I says, "I don't, sir, I don't know anything about you." "Where are all those boys of yours you had here?" I says, "I don't know where they are; they are gone, I reckon. They were here a few minutes ago." He says, "Where are all those guns and knives you had?" I says, "I have not got them; what I have are here." He said, "Pistol?" I says, "I have got no pistol, and never had none." "You are a liar." "Well," I says, "I haven't got any here. If you can find them, you are welcome to all I have got." Then those others threw the things out of the house. One of them says, "I will be G—d d—d if we don't burn them under that house." Another says, "No, throw the things out," and they threw the things out. Another says, "Come, George, we must make quick time here," and from that they were all gone, and I havn't seen anything more of them. The next morning I sent for Dr. Montgomery to come and see me, and he came and took out the bullets, and that evening they moved me to Graham, and I have been there ever since.

Q. You say this was a year ago about last christmas? A. Yes, sir.

Q. The other, you say, was about twelve months before? A. Yes, sir.

Q. How many were present this last time? A. I don't know—I can't tell you.

Q. State as near as you can. A. I cannot tell you, sir; I have no idea when they came into the house. The house was

full, I know; but when they came in the house I was in too much misery and pain to see any of them, hardly; but I recollect the house was full.

Q. State whether they were disguised or not? A. Yes, sir, all disguised the same way the first ones were.

Q. You cannot tell how many? A. No, sir.

Q. When they shot you what effect did it have? Did you stand or fall, or how? A. I just fell a short time after I was shot. I just turned away from the door, with my hand holding here to my breast where they shot me, and I just fell right down in the middle of the floor on my back; and I lay there till they came in and till they went out.

Q. How many shot hit you? A. Well, sir, there were two balls went into this arm [indicating the right arm] right here—there were three shots in that arm.

Q. In your right arm there were three? A. Yes, sir. And two balls here in the right side, and one shot right in there, [indicating about the region of the lungs] and one ball there [the left side.]

Q. Six shots? A. Yes, sir, in each arm I was shot.

Q. How long were you confined? A. Well, sir, I was confined from that time until some time in April. I could get about in April, but I couldn't do anything. I was not able to do anything at all until away in the middle of the summer.

Q. When did you move from that place? A. I moved from that place the next day—the next evening after I was shot.

Q. How did you get away? A. I sent down to Mr. Holt's and got his little one-horse wagon, and was hauled over to Graham.

Q. How were you fixed to be hauled? A. Well, sir, they threw a bed-tick in the wagon and put me in there on it, sir.

Q. That was the day after you were shot? A. The day after I was shot—the next evening.

Q. You have been living at Graham ever since? A. Yes,

sir. Dr. Montgomery said that if they didn't move me then they couldn't move me at all; and then on Monday Esquire Albright sent and brought the rest of my things away.

Q. When this knife was put to your breast in what position were you. Lying down? A. Lying down, sir, on the flat of my back, just as I fell.

Q. Where were your family then? A. They were all under the house, except these three little children.

Q. Where was your wife? A. She was under the house, sir.

Q. How many children were there under the house? A. There were four boys under the house, and my wife; and then there were three little children—the least children—in the house.

Q. Now, as to their drawing you up the first time, I wish you to tell whether they drew you entirely from the ground, or whether your feet touched the ground? A. No, sir, they did not draw me entirely from the ground—my feet touched the ground.

Q. Where was the rope? A. Around my neck, sir. They had cut my bed-cord and taken it and put it around my neck and threw it up over a limb.

Q. How far did they draw you? Did you stand flat on your feet, or on tiptoe? A. No, sir, with tiptoe on the ground.

Q. How many times did they draw you up? A. Three times, sir.

Q. In that way? A. Yes, sir.

Q. Were you drawn up or not when they whipped you? A. No, sir, I was sitting down when they whipped me—"bucked" down.

Q. You say you were drawn up at another time when they stuck a stick ——? A. They drew me up twice before they whipped me, and then whipped me and drew me up again, and took the stick that I was bucked with and rubbed it up and down my back.

Q. On your naked back? A. Yes, sir.

Q. State whether the bark was on the stick or not? A. The bark was on the stick.

Q. You say two of them took hold of it and rubbed you? A. Yes, sir.

Q. Describe more particularly this manner of bucking you; but first state whether they brought any blood or not? A. Yes, sir.

Q. State how it was done. A. They took me and took my shirt and wrapped it all around my head.

Q. State how the bucking was? A. They had my arms tied this way [showing,] and then I sat down on the ground and they put my arms over my knees and ran a stick through under here [under the legs,] and over both arms.

Q. Over your arms and under your knees? A. Yes, sir.

Q. And that doubled you up? A. Yes, sir.

Q. Then they whipped you in that condition? A. Yes, sir.

Q. What did they whip you with? A. Whipped me with switches,—some peach-tree switches and some cedar and some hickory.

Q. State about the skin, whether it was broken much or not? A. Yes, sir, it was, the blood ran all on the ground. I couldn't go but my wife went there the next morning, she pulled a splinter out of my hip that long, [showing by his finger a measurement.]

Q. How long is that? Two inches? A. Yes, more than that.

Q. Pulled that out of your hip after you came to the house the next morning? A. Yes, sir.

Q. You say they told you, if you didn't leave there the next time——A. The next time they would come they would kill me.

Q. The next time is when they shot you? A. Yes, sir.

Q. Did you know any of them? A. No, sir, not at that time.

Q. You didn't form any idea from their voices who they were? A. No, sir, not the last time.

Q. Did you the other time? A. The first time Mr. Anthony and two of his boys were there—Daniel Anthony.

Q. How did you know them? A. I knew them from the movement of the men and the size, because I have been always close by them, all my life.

Q. Give the names. A. Daniel and George, and Daniel again.

Q. And Daniel again? A. Daniel Anthony, sir,—two Daniel Anthonys, and one George.

Q. You say you knew them from their motions and their size? A. Yes, sir.

Q. How near did you live to them? A. I was always raised within three miles of them, and then I lived within about a mile of them, when I was living at Jerry Holt's—a little more than a mile.

Q. Were they men grown? A. Yes, sir, all grown.

Q. White men or colored men? A. White men.

Q. What party did they belong to? A. Well, I suppose they belonged to the democratic party.

Mr. GRAHAM. What does he know about it?

The WITNESS. I know that they belonged to that party, sir, from the course they have taken, you know, I know they do.

Q. Did they ever talk to you about their politics? A. No, sir, never talked to me about my politics.

*Cross-Examination.*

By Mr. GRAHAM.

Q. There was no politics in it? A. No, sir.

Q. Who raised you? A. Squire Edwin Holt.

Q. You were living in the employment of Colonel Jerry Holt at the time these things took place? A. Yes, sir.

Q. You have never left the county? A. No, sir.

Q. You still live there? A. No, sir, I live in Graham.

Q. But you live in the county? A. Yes, sir, I am still living in the county.

Q. Were you ever troubled except on those two occasions A. No, sir.

Q. There was no violence at any other time ever done to you?" A. No, sir.

Q. These men came there and began to enquire about chickens and wheat and corn, you say; did they not tell you that they were going to whip you for stealing? A. No, sir, they just asked me about those things.

Q. Did you not tell Colonel Jerry Holt that they said they had whipped you for stealing? A. No, sir, I told him just what I have told you now.

Q. Did you not tell Jerry Holt that they said they had whipped you for stealing? A. No, sir, I told him just what I told you about wheat and corn and chickens.

Q. Did you not tell him that they said they whipped you for stealing? A. No, sir, they did not tell me that they whipped me for stealing, they asked about chickens and corn and wheat.

Q. I am not asking what they said, I am asking what you told Colonel Jerry Holt? A. I only told him what I have told you and I asked him if he knew of any person who had wheat or corn missing in the neighborhood anywhere and he said he did, that his son George had. I said that was the wheat and corn that I was questioned about that night—just so.

Q. What did you mean by that? A. What I meant was that they asked me about wheat and corn.

Q. That George Holt had lost wheat and corn? A. Yes, sir.

Q. How did you know it was George Holt's wheat and corn they questioned you about? A. That is all he said he knew of. I did not know of any other.

Q. Did they say that night that they whipped you for your behaving indecently to white women? A. No, sir.

Q. They did not charge you with exposing your person to a white woman? A. No, sir, they never said anything about that.

Q. They did not say anything about your making an indecent offer to a white woman? A. No, sir, nothing of the sort.

Q. This whipping laid you up for some time? A. Yes, sir.

Q. How far from the place where you live was it to where you were whipped? A. About three hundred yards.

Q. Did you go there the next morning? A. No, sir, I did not.

Q. What was it you said about the blood being seen there where you was whipped? A. I said that you could have seen it, and those that went did; and they brought some leaves to the house that had blood on them.

Q. You did not see any blood? A. I saw blood on the leaves that they brought to the house.

Q. You were laid up, and could not go out? A. No, sir.

Q. You did not go back to the place? A. I went back after I got out to the place.

Q. Was it a dark night or a moonlight night? A. It was moonlight; there was a bright moonlight as you ever saw, I reckon.

Q. Did they take your shirt entirely off? A. No, sir; they took it and tore it, and wrapped it all around my head.

Q. Tore it off? A. They did not tear it off entirely from the neck; they tore it and wrapped it all around my neck and head.

Q. You mean they pulled it up in this way over your head and tied it? A. Yes, sir.

Q. How were your arms tied, were they inside the shirt? A. Of course they were, but then they could pull it up all around if my arms were there.

Q. Were your arms pulled up as well as your shirt? A. No, sir, they could not pull up my arms because there was a stick run through between my arms and my legs.

Q. I ask whether the arms were got out of the shirt? A. No, sir, they were in the shirt.

Q. They were in the sleeves? A. Yes, sir.

Q Also in the other part? A. They wrapped my shirt all around my head.

Q. I want to know in bringing the tail of it over your head, if your arms were inside of the shirt itself, and not the sleeves or the other part? A. Yes, sir, it was all wrapped up together any how.

Q. They had you all wrapped up in that way at the time you were bucked? A. Yes, sir.

Q. The arms being over your head? A. No, sir, my arms were not over my head.

Q. The arms were still in the shirt? A. Yes, sir, still in the shirt.

Q. Not in the sleeves of it but in the other part? A. Of course they were in the sleeves. They must have been in the sleeves. They could not get my arms out of the sleeves when I was bucked.

Q. These men when they came back said that you had said you were not afraid of them? A. Yes, sir.

Q. How many guns or pistols did you have in the house? A. I did not have any pistol but I had two guns.

Q. Where did you get them? A. I don't know where I got them but I got them after the first time when they whipped me. I had one before but they had taken that out and broken it up and then they took these and broke them.

Q. You got two guns between the times they came to your house? A. Yes, sir.

Q. Where did you get the guns? A. I got one from a black boy who lives at Mr. Thomas Foust's.

Q. Where did you get the other? A. I got the other from Sandy Andrews.

Q. Were they rifles or shot guns? A. One was a shot gun, and new, and the other was a musket like—an old army gun.

Q. What sort of a knife was this that you had? A. It was a bowie knife.

Q. You had two guns and a bowie knife in the house? A. Yes, sir.

Q. You say you had not made any threats, if these men came back, what you would do to them? A. No, sir. I said this, I was one day at Mr. Rogers hunting a place to go to after the first time and I was there and Mike Steel got after me about the Kuklux whipping me.

Q. Did you say if they came out again you would be prepared for them? A. I said this—

Q. I want you should answer my question? A. I went to my old master that raised me—

Q. Answer my question whether you said it? A. I can tell you the whole thing and then you can fix it just as you want it. I went to my old master that raised me to get him to advise me as to what was the best to do. He told me the best to do was to go along and say nothing about it, that I would find out a heap more about it than if I was to go and have them arrested, because these things, he said, had been existing in the northern states for many years, and that we men of the country could not understand them.

Q. I don't care about that? A. I cannot tell you unless I tell you that.

Q. You can give an answer to my question? A. No, sir, I cannot give you any unless I can tell you.

Senator ALLEN. Mr. Chief Justice, I move that the witness be required to answer the question.

The CHIEF JUSTICE [to the witnesss]. You will answer the question the counsel puts to you directly.

Q. Did you not give it out that you were not ready the first time they came there, or something of that sort, but that you would be when they came again? A. No, sir, I did not.

Q. Did you take out a warrant for anybody who whipped you? A. Yes, sir.

Q. Who was it? A. Mr. Anthony, Daniel Anthony, George Rogers and Henry Albright; and Mr. Holt and several others were summoned there before Mr. Hardin.

Q. You went before Mr. Hardin and got a warrant. A. Yes, sir.

Q. Who did you swear, before Mr. Hardin, had done thi thing? A. It was this Mr. Anthony, I told you.

Q. How many? A. The three Anthonys and Peter Sel lers I had up there, but when I went up there they had mor there than I had said anything about.

Q. The three Anthonys and Sellers were the men yo named? A. Yes, sir.

Q. You did not tell us a little while ago about Sellers? A No, sir, I did not say that point blank. I said I believed.

Q. When you went to the magistrate did he issue a warran for more people than you swore against? A. There wer some there that I did not take out a warrant for.

Q. They had served the warrant upon more people than yo had made an affidavit against? A. I did not make an affidavi against George Rogers, but they had him there.

Q. Did you make any against Sellers? A. I did.

Q. You made an affidavit against Sellers and the three An thonys? A. Yes, sir.

Q. What became of the warrants? A. I don't know, I paid Mr. Badham.

Q. Did you not have a trial? A. Yes, sir.

Q. You had a lawyer? A. Yes, sir.

Q. Lawyer Badham took out the warrant? A. Yes, sir.

Q. You made an affidavit? A. Yes, sir.

Mr. McCORKLE. We object, Mr. Chief Justice, to a speaking of any affidavit or of a trial before the magistrate, unless they produce the warrant; that is the best evidence by which they can contradict the witness.

Mr. GRAHAM. I am speaking of what this man did.

Q. Mr. Badham attended for you in the proceedings before Squire Hardin? A. Yes, sir.

Q. He was a justice of the peace? A. Yes, sir.

Q. And when the matter came up there were more people than you had sworn against? A. Yes, sir.

Q. What was done with the warrant?

Mr. BOYDEN. That will show for itself.

Mr. GRAHAM. The magistrate may have made an entry on the warrant or he may not. I want to know if the warrant was not dismissed.

The CHIEF JUSTICE. I think you can ask whether the warrant was dismissed and if so, upon what ground.

Q. Did not Mr. Hardin throw it aside? A. I guess they didn't do anything after that.

Q, You were sworn in the presence of these men? A. Yes, sir.

Mr. SMITH. I would like to know the purpose of this; it may be competent for one purpose and not for any other.

Mr. GRAHAM. We offer to show that the witness sued on a warrant before a republican magistrate.

Mr. SMITH. For the purpose of contradicting witnesses hereafter?

Mr. GRAHAM. We may do that.

Mr. SMITH. I desire to give fair notice, Mr. Chief Justice, that I shall object to contradicting a witness on any collateral matter hereafter.

Q. You say Mr. Hardin dismissed the complaint? A. Yes, sir.

Q. You seem to know the politics of others, will you tell what party Mr. Hardin belongs to? A. I suppose he is a republican.

Q. You don't know much about that? A. I do not know. I never had any conversation with him.

Q. Don't you know that he is a republican as much as the Anthonys are democrats? A. I don't know that they are democrats. I didn't have any conversation with them in any way. I didn't talk with them about these things.

Q. You said they were democrats? A. I supposed they were.

Q. Didn't you suppose Hardin was a republican? A. I suppose he is.

*Re-Direct Examination.*

By Mr. BOYDEN.

Q. Who was examined on the other side? A. No person.

Q. No body examined at all? A. No, sir.

Q. Have they ever been examined before a grand jury about this? A. I don't think they have.

Q. You don't know of any? A. No, sir.

Q. You say Mr. Hardin was a republican? A. Yes, sir.

Q. And Badham your lawyer was a republican? A. Yes, sir.

Q. [By the Chief Justice]. Did I understand you to say that no witnesses were called for the defence? A. Yes, sir.

Q. State whether a great many persons were present at the trial? A. Yes, sir, there were a great many in there.

Q. Was there a good many democrats there? A. I reckon there were a good many.

Mr. GRAHAM. We object to leading questions on the redirect examination.

Q. You mentioned a doctor attending on you, did you have more than one? A. No, sir, only one doctor attended on me, Doctor Murphy.

Mr. GRAHAM. I have not asked the witness on the cross-examination anything in reference to his doctor.

Q. [By the Chief Justice]. That was the last time when you were shot? A. Yes, sir, Doctor Montgomery took the balls out but Doctor Murphy attended on me after I went to Graham.

Q. Explain how your shirt was put over your head? A. They tore it upon each side and wrapped it about my head.

Q. And your arms were still in the shirt sleeves? A. Yes, sir, they ripped it up on each side and put it around.

Q. That was while they had you bucked? A. Yes, sir.

Q. They put the shirt over your face and around your neck—put up the flaps behind and before? A. Yes, sir.

LEONARD RIPPEY, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCORKLE.

Q. Give your name, age and residence? A. 1819, September 9th, was my birthday.

Q. How old are you? A. Fifty one years.

Q. Where do you reside? A. In Alamance.

Q. How long have you lived there? A. All my life.

Q. Go on and state what you know of any outrage being committed on you, where you were and all the circumstances attending it without my putting separate questions.

Mr. MERRIMON. Was it in Alamance county?

The WITNESS. No, sir, it was in Caswell county. I had some molasses that I had engaged to give my brother-in-law in Rockingham, and I was carrying the molasses to him on a one-horse wagon. Just as I got in the edge of Caswell county, seven or eight miles from my home, I came to a blacksmith's shop, and I wanted to get some work done on my wagon. It was Jake Brannock's. It was about one hour and a half by the sun when I got there. He could not do the work I wanted him to do on my wagon then, as he was doing work for a widow woman—her son was there having some work done on a wagon tire, cutting and putting it on, but he said as soon as he got through with that he would do my work. I held on to wait. When he got through it was pretty well nigh night, and then I had some five miles to go to where my brother-in-law lived, and I was dubious about my making the trip with the wagon.

Mr. GRAHAM. It is not worth while to go into all that.

Q. [By Mr. Merrimon.] Are you sure it was in Caswell? A. Yes, sir, I am certain of that; I am well acquainted.

Q. Go on and tell what took place? A. I had no cover on my wagon, and I asked him if I could stay that night by his fire.

Q. At his house? A. Yes, sir.

Q. You did stay there? A. Yes, sir.

Q. [By Mr. Graham.] Whose house? A. Jake Brannock's.

Q. [By the Chief Justice.] He is a negro blacksmith? A. Yes, sir, I laid down by the fire and went to sleep. By and by I heard a horn blowing and I supposed it was somebody around hunting. I then went off to sleep again. I waked up and I heard the horn blowing again. I still supposed it was

some hunter around there but after awhile there was a knock or calling out at the door. I sort of turned over. I was lying on my elbow like that [illustrating.] They called at the door but nobody made any move, nothing was said. The second time they called Jake Brannock answered and called to know who was there. They said "John Spence," a yellow fellow; and then they asked him to open the door. Brannock says, "You cannot get in this house; who are you?" They made no answer, but he opened the door, and said, "You cannot get in until you tell who you are;" and then I heard some rumbling beside the house. There was some wood on the side, and they took a stick of wood and begun to knock it against the door, and they came in right to me before the fire, where I was lying, and rubbed a pistol on my forehead, and told me to get up and go with them.

Q. How did they look? A. They were disguised—had on white disguises that hung down pretty near their ankles and they were covered over their heads and had horns or something like that or ears. Of course I got up and they took me out of the house up the road some twenty yards from the door.

Q. Did they take anybody else? A. Not just then, they carried me on the road there and every now and then I passed some persons on either ssde with the same kind of clothes and horns until they got clear off two hundred yards. They then came up with Jake Brannock and they laid him down.

Q. Describe what was done? A. They laid him on his belly, as well as I could tell, for they were all around and went to whipping him. It seemed to me there were five or six whipping him at the time, just standing on each side and whipping him. He was lying on his belly when he laid down. I suppose he twisted around; I could not very well see.

Q. [By the Chief Justice.] Did he have his clothes on? A. He just had on his night clothes that he was lying in.

Q. A shirt and drawers? A. Yes, sir, I suppose so.

Q. What did they do to you? A. One of the disguised men stepped up to me and asked if I had a knife. I told him I had,

he said for me to lend it to him. He discovered that I was considerably stirred up and he said "you need not be uneasy we are not going to pester you," but he went and cut some hickories and came back and handed me the knife. When they had got done whipping Jake Brannock they come to me and said "we are going to give you twenty-nine, for being in a nigger house," and asked me why I had stopped in that nigger's house. I told him that I had stopped there to have my wagon fixed and night had come on and I had no shelter and I had asked him if I might not stay in his house. They asked me why I did not go to some white man's house. I told them that I supposed I might have done so but I was there and I thought I might as well stop there; he then hit me two licks and the other hit me three and told me to go back to the house.

Q. [By the Chief Justice.] Did they tie you? A. No, sir.

Q. They took of your coat? A. I had my coat off. I had on my pantaloons and flannel waistcoat.

Q. State whether you had your clothing or shoes on when you went out? A. I did not have my shoes; only my stockings, pantaloons and waist coat.

Q. Describe the character of the scourging that was inflicted on Jake Brannock, how many persons there were and how they whipped, and whether they were standing on one side or both? A. They were on each side as well as I could see—they were around—two or three on each side.

Q. Did they hit him more than once? A. They hit him a good many times—I cannot tell the number.

Q. Could you not form any idea? A. I don't know, there were a great many licks struck.

Q. What do you call a great many? A. I would suppose that there were seventy-five or eighty lashes. I could not tell how many.

Q. State whether you saw him after he returned to the house? A. Yes, sir; I saw him the next morning. I did not see him any more until the next morning.

Q. What was his condition? A. He was very much hurt.

I saw no part of his skin but his hands and a little up on l wrists. His hands were scarred and swelled up, and his fa too.

Q. You did not see his back? A. No, sir; I never saw l back at all. The night before he helped me to put my n lasses in his house, but he could not help me to take it out.

Q. I understood you to say they gave you five lashes? Yes, sir.

Q. You say they first rubbed a pistol on your head? Yes, sir.

Q. Was anything said about politics? A. There was o stepped up and rubbed his hand over my forehead and sa "You are a d—d old radical."

Q. Did you state when this was? A. It was in Novemb 1868, as well as I recollect, sometime in November—I cann be positive.

Q. Did you state whether they were disguised or no A. Yes, sir, they were all disguised that I saw.

Q. How many were there? A. They looked to be eighte or twenty.

Q. You say this was in Caswell county? A. Yes, sir.

Q. How far from the Alamance line? A. About half mile I think, as well as I know where the line was—where had been told the line was.

Q. Did you recognize any of these parties? A. No, sir.

Q. You knew none of them? A. No, sir.

Q. You don't know where they were from? A. No, sir.

Q. Which way did they leave? A. They drove me ba and I left them there with Jake. I do not know where th went.

Q. You did not see the direction they took? A. No, sir.

Q. Do you know what direction they came from? No, sir, the first I saw of them was when they came to tl door.

Q. What has become of Jake Brannock? A. I unde

stand that he is somewhere up in Guilford over by Greensboro'.

Q. He has left that place? A. Yes, sir, I have not seen him since that I know of.

*Cross-Examination.*

By Mr. GRAHAM.

Q. Is this a public road? A. Yes, sir.

Q. It leads from where to where? A. It is a road leading to the High Rock.

Q. How long had Jake Brannock lived there before then? A. I am not able to tell you.

Q. This you say was in November 1868? A. Yes, sir, as well as I recollect.

Q. He stayed there after that? A. He left Christmas and went to Guilford as I understand.

Q. He left at the end of the year? A. Yes, sir.

Q. You say this road leads from Alamance to High Rock? A. There is a road that comes up out of Alamance into the road that leads up to High Rock, just below. I cannot tell how far, it is some two or three hundred yards, then there is a road coming out of Caswell that makes up to it.

Q. High Rock is in Rockingham? A. Yes, sir.

Q. How far was this from High Rock? A. Two and a half miles or three.

Q. From High Rock? A. Yes, sir.

Q. You say you know well where the county line is? A. I know where I have been told it was.

Q. You say this is not in Rockingham county? A. No, sir; not from the directions which I have.

Q. Whose land is it that Jake lived on? A. This belonged to Madkin's, that is the understanding I had of it.

Q. Does Madkin's live in Rockingham or Caswell? A. He lives in Rockingham I think.

Q. William Madkin lives in Rockingham? A. Yes, sir.

Q. Is not this tract of land in Rockingham also? A. No, sir, not according to the understanding I have of it.

Q. Had you known Jake Brannock before this? A. Yes, sir.

Q. Had you stayed at his house often over night? A. Never but the one time.

Q. When these men took you out did they not catch you in bed with a colored woman in that house? A. No, sir, never.

Q. Did they never charge you with that? A. No, sir, never. The only reason they assigned for whipping me was because I was staying in a negro's house.

Q. Were you not in bed with a colored woman that night? A. No, sir.

Q. You state positively you were not? A. I do.

Q. Where were you lying when they came? A. There was the whole family. I do not recollect how many children he had.

Q. How many women were there there? A. There were two—his wife and his daughter; he had a daughter grown.

Q. You say these men made no charge against you of that sort? A. None at all.

Q. The whole house consisted of one room? A. Yes, sir; it was a very long house.

Q. You knew the family well before? A. I had not known them a great while; I don't recollect exactly how long. I had come to Jake to shoe my horses in passing.

Q. Did you ever see that young woman before that night? A. I don't know that I did. It is likely that I have.

Q. Were you in the habit of stopping when you passed there? A. Only in getting work at the shop. I have had horses shod there a time or two.

Q. You have stopped there several times in passing? A. Yes sir.

Q. Is the shop near the house? A. About forty or fifty yards.

JOHN SHATTERLY, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCorkle:

Q. What is your age? A. I don't know my age exactly, but I am some thirty years old.

Q. Where do you reside? A. Alamance.

Q. State whether you were visited by persons under peculiar circumstances, and if so, state all about it? A. In October, 1869, if I am not mistaken, a band of men came to my house in the night and shot into my house—towards my house. I was standing in the door at the time. My dog was barking, and I was awake, and I got up and was standing in the door as they came down the road. My house is close to the road. As soon as they shot I snatched my gun which was over my door. I asked three times who was there and nobody spoke, they began to crawl down by the fence.

Q. Did you see any body there? A. I saw some persons.

Q. How many? A. I cannot say exactly how many. They squatted down around. It was tolerably dark, but as many as I could discover was two. They stood right up by the fence after the others squatted down. I could not tell, it was so dark.

Q. How were they dressed. A. They had spotted concerns on as well as I could tell—white and black.

Q. What do you mean by concerns, had they ladies' dresses on, or clothes? A. It was a kind of a concern which is called disguising I suppose.

Q. [By the Chief Justice.] What was done? A. Well, sir, I shot in among them, and I heard one begin to groan as though he was hurt. I heard one ask him something, I did not understand what, and he hollowed out "I can't," and he repeated again "I can't." I stepped back in the house to load my gun in time, and they put back up the road where they came.

Q. Did you see any body else then? A. Yes, sir, I loaded the gun and stepped back in the house, but I concluded that I had better watch, as they might come back. I stepped out between the kitchen and the smoke house, and I heard somebody walk up the path back of us. I watched pretty close

until I could begin to see a glimpse of him, when I cocked my gun.

Q. What sort of a glimpse did you have—what did it look like? A. It was in the shape of a man.

Q. How was he dressed? A. I can't tell much about that, it was so dark I can't tell much about his dress; he was a little too far off.

Q. What did you do? A. I cocked my gun. My wife commenced calling in the meantime, "Don't shoot unless they come into the yard." I said "halt, you good-for-nothing scoundrel—you have come within one of getting killed, and that should be a warning, and you had better stay away or I will kill you." He scrambled on back towards the hill there was behind, and I heard him everlastingly make the weeds pop in running.

Q. What time was that? A. My clock was not running, but I suppose it was between one and two o'clock.

Q. After midnight? A. Yes, sir.

Q. How many persons did you see about your premises? A. I did not discover but three.

Q. From the noise that was made, could you form any idea? A. I suppose there was seven or eight from the noise.

Q. You think from the noise there were seven or eight? A. Yes, sir.

Q. How many guns did they fire? A. I think four as well as I recollect.

Q. You say when you fired into them there seemed to be some confusion, and some one remarked, "I can't": A. Yes, sir, but before he hollowed, "I can't," he grunted several times as if he was hurt.

Q. I understand you to say that they fired several times before you came out of the house? A. Yes, sir, I was standing in the door when they commenced firing.

Q. Did they fire at your house or don't you know? A. I saw where one ball struck the fence; it was coming in the direction towards the house.

Q. How far were they from the house when they shot?. A. I suppose about ten or fifteen steps.

Q. Then there was a fence interposed between them and the house? A. Yes, sir.

Q. How high was that fence? A. I don't know. It was, I suppose, tolerably high—seven or eight rails high. I suppose it was about so high [putting his hand to his breast.]

Q. Were the shots they fired in direct range of your house? A. Yes, sir.

Q. How far was this person whom you discovered back of your house? A. Well, sir, he was fifty yards I would suppose.

Q. Then they were on both sides of your house? A. Yes, sir.

Q. Did you learn of anybody being wounded in the neighborhood there? A. I did.

Q. Who was it?

Mr. GRAHAM. Speak from your knowledge? A. James Patterson.

Q. (By Mr. Graham.) Do you know from having seen him? A. Yes, sir, I saw the wound. He told me it was cut by an axe.

Q. What kind of a gun was it that you had? A. It is what is called a smooth bore for either shot or bullet. The one I shot was a bullet.

Q. You saw the wound on Patterson? A. Yes, sir, I saw one. He said it was cut by an axe.

Q. What do you think it was? A. It did not look to me like a wound by a bullet.

Mr. GRAHAM. Then you do not know anything about it.

Q. Where was the wound? A. Right about here, [pointing to above the ankle,] but his foot was swelled right down here, [pointing to the instep,] where he showed me was a little scratch, and I could not discover but a very little swelling there.

Q. Could you discover any other wound about him? A. No, sir.

Q. Where do you say this wound was, on what part of his person? A. On his ankle like.

Q. How came he to show it to you? A. He had heard that I accused him of having been at my house that night and saying that I had shot him.

Q. What else do you know about these disguised men? A. I think that is about all I recollect.

Q. Do you know anything about Daniel Isley? A. There was said to be——

Mr. GRAHAM. We object.

Q. Did you see Daniel Isley afterwards? A. I saw him.

Q. Did you examine his person? A. I don't know as I understand you.

Q. Did you see the back or any other part of Daniel Isley? A. No, sir.

Q. Did you see any marks on him? A. No, sir.

Q. I don't refer to anything that took place when they came there to your house. I want to know if you know anything about Daniel Isley being whipped? A. No, sir, I never heard of his being whipped and I am a neighbor of his..

Q. Did you see any persons disguised before or after the time now referred to? A. Yes, sir, I saw two.

Q. Go on and tell and don't keep us waiting? A. That was a week before they came to my house. There were three that went by my house. I can't say that one of them was disguised, he was a right smart piece before the others.

Q. How were they disguised? A. They had on spotted white concerns or gowns.

Q. Covering their faces or not? A. No, sir; they had none on their faces.

Q. What time of day was this? A. It was in the night.

Q. What time? A. I would suppose between one and two o'clock.

Q. Before day? A. Yes, sir.

Q. These were the only two times you ever saw any of them? A. Yes, sir.

Q. Did you talk to these men? A. No, sir.

Q. Do you know where they were going? A. They were going home, I guess. I tracked them the next morning to where they went into the gate.

Q. Where did you track them to? A. To McPherson's. They lived there.

Q. What is Mr. McPherson's name? A. Wesley McPherson.

Q. How many were living there? A. There was himself and the two young men; they were all I know of.

The CHIEF JUSTICE. Were they riding or walking when they passed? A. They were walking.

Q. You tracked them the next morning? A. Yes, sir, I tracked them to where they went to that night.

Q. Who were they? A. Fred. Watson and Joe Watson.

Q. How far did they live from you? A. I suppose it was about a mile.

Q. What county do you live in? A. Alamance, I believe.

*Cross-Examination.*

By Mr. GRAHAM.

Q. Do you travel about a good deal at night? A. No, sir, not a great deal.

Q. How did you happen to see these two men that night? A. My dogs flew out, and I got up.

Q. I am not speaking about the dog affair. I am speaking of the two men whom you say you saw on a certain occasion? A. I say that I heard my dogs fly out, and I saw them pass.

Q. This was at two o'clock at night? A. Yes, sir.

Q. Did they hail you, or you them? A. No, sir.

Q. You went right on after that to track them? A. No, sir, the next morning.

Q. Did you discover it was these Watsons that night? A. Yes, sir.

Q. How? A. I saw them.

Q. Do you know them? A. I do.

Q. You say they were disguised? A. Yes, sir.

Q. How do you know that they were disguised? A. They didn't have anything on their faces only just these concerns over the body.

Q. How far were they from you? A. They were some ten steps, I suppose.

Q. Was it a dark night? A. No, sir, the moon was shining bright.

Q. You spoke to them? A. No, sir.

Q. How came you to have your attention directed to them at all—how did you happen to get up at one or two o'clock at night? A. My dogs flew out.

Q They were on the public road? A. Yes, sir.

Q. Do you keep biting dogs? A. I have pretty severe dogs.

Q. You know the Watsons? A. I know the two.

Q. How came you the next morning to track them? A. I wanted to see what they were up to going about in any such concerns as that at night.

Q. You didn't ask them that night? A. No, sir.

Q. Did you carry your gun with you or not? A. No, sir.

Q. Why did you not hail them? A. I had no authority to hail them.

Q. You went the next day? A. Yes, sir.

Q. About two weeks after that there were some persons came to your house and your dogs barked at them? A. Yes, sir.

Q. You went out with your gun? A. Yes, sir, as soon as they got there, I got my gun.

Q. How often did they shoot? A. Some four times.

Q. Did they shoot in the direction of your house? A. Yes, sir, as well as I could tell.

Q. Were balls fired into your house? A. No, sir, I think not.

Q. Which way did they pass? A. One went in the bar post, or the fence rather.

Q. Did they say anything, or hail you? A. No, sir, nothing to me, I asked them who was there.

Q. They made no answer? A. No, sir, not that I heard.

Q. You say you went out to fire? A. I did.

Q. You didn't go up to see who it was? A. I went back to load my gun as quick as I could.

Q. They went off before you returned? A. Yes, sir.

Q. How far did these Watsons live from you? A. About a mile.

Q. How far does Patterson? A. About a mile as far as I can tell.

Q. Are you on bad terms with your neighbors? A. I don't know as I understand you.

Q. Are you on friendly terms with them or not? A. I am with some of them, and some I am not.

Q. A good many of them are not friendly with you, is not that so? A. There are some I am not friendly with, and some I am.

Q. Do you know anything about Hornaday's house? A. I do not know except what he told me.

Q. Don't you know that you and two or three men went and shot into his house? A. I don't, nor you either.

Q. Don't you know that? A. I do not.

Q. Were you one of the parties who went to alarm him? A. No, sir, I was not.

Q. You had no agreement of that kind with anybody? A. No, sir.

Q. Are you the person who compromised a bastardy suit with a sister-in-law? A. I am.

Q. Your wife's sister charged you with being the father of her child? A. Yes, sir.

Q. And you paid it up? A. Yes, sir, I settled it.

Q. Are you the same man who carried diseased beef, and sold it at Company Shops? A. I am not.

Q. Did you not say that you had killed a distempered animal and carried it there, and sold it? A. No, sir.

Q. You didn't do it? A. I did not as I know of. I killed a beef, but if it was sick I did not know it.

Q. You did not know it had the distemper? A. I did not.

Q. You didn't tell anybody that you did? A. I did not.

The CHIEF JUSTICE. If the purpose of the counsel is to contradict the witness' statement they must have him designate the time and place.

Mr. SMITH. We shall submit when the time comes that this is a collateral question about which the witness cannot be contradicted.

Q. Have your neighbors not bound you over for dogging their cattle? A. Nor sir.

Q. Has there been no complaint? A. There has been.

Q. You got through with that? A. It is settled, I am not bound.

Q. Were you not bound over for abusing Mr. John Patterson, an old man 60 or 70 years old? A. No, sir, not now.

Q. How long since you were? A. I was bound over this last court.

Q. Were you not bound to appear at the next court again? A. No, sir.

Q. Are you sure of that? A. I am.

Q. When the constable came to arrest you did you resist him? A. I don't know that I did—I talked rather short to him.

Q. Didn't you resist him, and didn't he have to call another man to his aid? A. I believe there was something of that sort said.

Q. Don't be believing—you know that as well as anything else that took place? A. I believe I told him I was not going, and he did say something to that effect to a neighbor there that he would have to help him take me.

Q. He did call assistance? A. Yes, sir, I believe that is so.

Q. Were you one of the men who acted as Kirk's pilot? A. I went with them to a few places.

Q. Were you enlisted? A. No, sir.

Q. Were you the one who furnished names to Kirk for his

men to go around and take people? A. I told him some few names I believe.

Q. Whose names did you give him? A. I gave him Eli Euliss, Thomas Lutterloh. I believe Mike Euliss and John Tyler Fogleman.

Did you go to the Shops as soon as Kirk got there, or Burgen whoever it was? A. Yes, sir, it was some time after he got there that I went.

Q. What did you go for? A. I went to Graham, and I met up with Henry Ray, and he said they wanted me to go with them, and show them a couple of men. I didn't tell the names to Burgen, but I gave them to Mr. Albright.

Q. What Albright? A. Bill Albright.

Q. Which Bill Albright? A. "Red eyed" as they call him.

Q. Was he a brigadier-general? A. I don't know what he was.

Q. You don't know that he was a brigadier-general? A. No, sir.

Q. You gave the names to him? A. Yes, sir.

Q. He gave them to Burgen? A. Yes, sir, I understood he lost the names I gave him.

Q. But you gave them to him? A. Yes, sir.

Q. Then you went along to point out the men where they lived? A. It was some time after that when I went over to Graham. I met up with Henry Ray, and he went and told me to go along up to the Shops.

Q. What pay did you get for your army service? A. Nothing.

Q. Nothing at all? A. No, sir.

Q. Were you promised anything? A. No, sir.

Q. At the time you gave the names to Albright was there any promise? A. No, sir.

Q. Who got you to go along as pilot? A. Mr. Ray asked me to go along to the Shops.

Q. Is he an officer or colonel or what? A. I don't know anything about that.

Q. Is he a colonel or general? A. I don't know what office he held.

Q. You went with him from Graham to the Shops? A. I did not go with him but he told me to go on up there and he would be there directly. I went up; as soon as I got there Burgen sent me with a negro to put me under arrest and put me in the guard house. In a few minutes he sent for me and then I asked him what he meant by it; he said he wanted me to go with these men and show them the Kuklux or who I supposed were the Kuklux.

Q. Do you belong to the League? A. I did, or rather, I was sort of taken on trial. I have never been back again.

Q. Did you take an oath? A. No, sir.

Q. You did not swear you would support republicans for office? A. No, sir.

Q. Who took you in? A. I believe Thomas Stafford.

Q. Where does he live? A. He is out in Indiana, I believe.

Q. How did he take you in if they did not swear you? A. They rather agreed not to say much about it—to say nothing about what was said.

Q. That is not taking a man in "to rather agree to say nothing about it." What did they do when they took you in? A. I don't recollect what the words were they put to me, but they did not swear me.

Q. What did you promise? A. I rather promised to vote with the republican party.

Q. Anything else? A. No, sir,

Q. Did you hold up your hand? A. No, sir.

Q. Did you affirm or swear? A. No ,sir, I did not swear. I rather affirmed.

Q. You rather promised that you would vote with the republican party? A. Yes. sir.

Q. You did not make any other promise at that time? A. No, sir.

Q. You did not attend any more meetings of the league? A. No, sir, not that I remember.

Q. How far from your house is the fence on the road? A. Some ten steps I suppose. I never stepped it exactly.

Q. Out to the road? A. It may be more, I never stepped it.

Q. This time that you were taken in the league by Thomas Stafford, was it in the day time or night? A. It was in the night.

Q. What time in the night? A. I don't recollect.

Q. How many persons were present? A. There were several.

Q. Black or white? A. Some of each I believe.

Q. Was it in a general meeting of the league? A. I suppose so.

Q. Where was it? A. It was at Sam. Alexander's school house.

Q. A meeting of the league composed of men of both complexions? A. Yes, sir.

Q. You were admitted that night? A. Yes, sir.

Q. Did they have lights? A. Yes, sir.

Q. Did they read anything to you? A. No, sir.

Q. No reading or writing done? A. Not as I recollect.

Q. Would you know what was said if you were to see it? A. No, sir, I would not.

Q. You don't know? A. No, sir.

Q. But you were bound to vote with the republican party? A. I rather agreed to.

Q. Did you have any reservations or did you determine you would not do it if you did not choose? A. I think I did.

Q. On what conditions were you to have your own way if you promised to do it? A. I don't recollect now all that was said. I cared so little about it that I did not pay much attention.

Q. What did you go for? A. I wanted to go and see what they were up to.

Q. Did'nt you know it was a meeting of the league before you went there? A. Yes, sir.

Q. You went to join? A. I went rather to go and see.

Q. You went to join? No, sir, I went to see what they were doing.

Q. And you were so well satisfied that you joined? A. I did not join.

Q. You did not join? A. I don't consider I joined, I rather agreed to.

Q. You told me when I asked you before that you did join? A. I never took any oath I rather agreed with them that I would——

Q. You say you did not join? A. I say I did not join it.

Q. You take that statement back? A. I did not take any oath.

Q. You did not consider yourself to be a member of the league? A. No, sir.

Q. And never did? A. No, sir.

Q. They allowed you to be there with the members? A. Yes, sir.

Q, Did you go back again? A. No, sir.

Q. Did they take you on trial? A. Yes, sir, rather. That was my understanding.

Q. Did you not please them—did they turn you out? A. There was no more said about it after that. I did not go back.

Q. You did the voting they wanted and no more was said about it? A. Sometimes I did and sometimes I did not. I split my ticket sometimes.

*Re-Direct Examination:*

By Mr. McCorkle.

Q. You were not a member in full communion? A. No, sir.

Q. They took you on probation? A. Yes, sir.

Q. When was it they took you in? A. I declare I don't believe I can tell. It was in 1868 I reckon.

Q. You attended but one meeting? A. That is all.

Q. Are you familiar with the constitution and by-laws of the league? A. No, sir.

Q. You never read them? A. No, sir, I never read much anyway.

Q. You say you have pretty bad dogs? A. Yes, sir.

Q. What were your reasons for getting up whenever your dogs barked? A. I was afraid to lay down at night——

Mr. GRAHAM. That is new matter.

Mr. McCORKLE. It is in reply to a question which was propounded by the counsel for the managers.

Mr. GRAHAM. The witness proved that at the outset the dogs barked and that was the time for him to give his reasons if he desired it.

Mr. McCORKLE. The counsel called out the facts from the witness, that these dogs were very sharp, and I desire to ask him why it was that he got up when the dogs barked.

The CHIEF JUSTICE. The presiding officer thinks you cannot open new matter unless by consent of the counsel.

Mr. McCORKLE. I supposed it was in direct reply. I suppose I may examine the witness in reference to his relations to Kirk.

The CHIEF JUSTICE. Certainly you can ask him.

Q. State what names you gave to Ray, and whether the names you gave were of men who were members of a secret political organization? A. I cannot say that I stated that they were members, but I gave him my opinion that they were.

Q. What opinion was it that you gave? A. That they belonged to the Kuklux, as it was called.

Q. You gave the names of persons whom you believed belonged to the Kuklux. A. Yes, sir.

Q. Did you give any other names but such as you thought belonged to the Kuklux? A. I did not.

Q. Do you recollect what names you gave? A. I do not know as I do, all of them. There was Eli Euliss, John Tyler Fogleman, and I think Thomas Lutterloh and Mike Euliss. I believe that is all I recollect. [redacted]

Q. You say after you went to Company Shops you were

required by some of the officers there to go as a pilot and to show where these parties lived? A. Yes, sir.

Q. That is all you did? A. Yes, sir. They put me under arrest for a few minutes.

By the CHIEF JUSTICE.

Q. They put you under arrest? A. Yes, sir; they sent me to the guard house.

Q. They did not pay you anything? A. No, sir; they kept me some ten or fifteen minutes after they put me under arrest, and then sent for me.

WILLIAM LONG, (colored) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BADGER.

Q. Have you ever lived in Alamance county? A. Yes, sir.

Q. When and how long? A. 1869.

Q. During the year 1869? A. Yes, sir.

Q. Is that the only time you lived there? A. I was raised there.

Q. And you lived there during the year 1869? A. Yes, sir.

Q. How old are you? A. I am thirty-one on the 2d of March.

Q. Where did you live in Alamance? A. In the upper edge.

Q. What part of the county as respects Guilford and Caswell? A. It was about half a mile from Guilford.

Q. How far from Caswell? A. It was about thirty or forty miles; it was nearer to Guilford than Caswell.

Q. Where did you live, and what was your occupation? A. My trade was shoemaking, and I lived on Mr. Daniel Tickle's land.

Q. State whether you were whipped, and if so, under what circumstances, tell all about it? A. In October, 1869, I was employed by Mr. Louis Tickle to make his family some shoes —to go to his house and make shoes. Finally on Monday morning I got my tools and I went there and worked until Wed-

nesday. On Wednesday night, after supper, everything was over, and I went to work again on my shoes by candle-light. After eight o'clock—it was not nine, but it was nearly about bed time—one of the daughters went out of the door, and she came back excited, so much so that she could not tell what was the matter; in fact, she did not have time, but in the course of a few minutes the door was clustered with about eight or ten disguised men.

Q. How were they disguised? A. They had on white robes coming over the head bound with red and with horns on, some straight and some turned down, as I experience. Then they called for a negro. I did not say anything. Mr. Tickle got up and he asked what they wanted, he said they wanted me, he said let him alone that he was not doing any harm, they finally insisted that he should come out, and that I had to come out. He told them to go back and behave themselves that he did not want any foolishness; then they told him that they were not going to trouble him, but all they wanted was the negro. He looked back and said "Bill you will have to go." I had a shoe knife in my hand and was just trimming the bottom and they ordered me to put down the shoe knife. I did not want to go and was slow to do so but I went to the door and they laid hold of me and they wound me up so (illustrating.) I did not try to get loose in fact I was afraid to undertake it.

Q. Did they have any arms? A. One had a sword and others had clubs. I did not see any other at that time. They took me about a quarter of a mile I reckon, to a place I was very well acquainted with, for I had passed it for years.

Q. Where was it? A. It was between Mr. Israel Cable's and Louis Tickle's, near about half way on the left hand side of the road. There was a post oak tree that had double prongs growing up from the root. I had noticed it many a day. They concluded they would hang me up. Finally, some says not—I suppose they did it just for a sham. They asked me if I knew

anything about breaking open a house. I told them "No, sir." He says "Don't you say you don't."

Q. Whose house? A. He said, "Don't you know anything about the breaking open of Daniel Patton's house?" I said "I did not." I said, "When was it done?" He said, "Between eight and ten months before." I said, "I was in Salisbury at that time." He said, "No I was not." I said, "I was." He said "I was not, you tell something about it." I said, "I am willing to tell anything that I know but I don't know. Finally they untied me the way they had me and then tied me again sufficient to stretch my arms across and bucked me—you all know what that means I suppose. They took down my clothes—they did not take off anything but they tore my clothes; He said, "I want you to tell me something about breaking open that house." I said, "I have nothing to tell you." He said, "You have got to tell something." I said, "I have nothing to tell, I don't know." And they whipped me awhile and then asked me questions and would whip me again and asked more questions. I grunted very loud and they commenced whipping me again. "Now," he said, "what have you got to say," I said "gentlemen what must I say?" The captain—I suppose it was the captain gave notice to commence on me, and they gave it to me pretty strong. Then I took the heaviest portion of the whipping. Then he said, "Now what have you got to say?" I said "I will say anything you want me to say, I don't care what it is." Then he drew a pistol and he said, "It has got to come out whether you did." I was rather trembling and I could hardly move and I said, "What must I say?" He said "I want you to say whether you broke open that house or not." I said "I will acknowledge to everything you say," and I asked them when the house was broken open and whether anything was taken and they told me when the house was broken open and I repeated that over and finally whose house it was and when it was done and what was taken. I knew nothing about it but whatever they said I was fo acknowledge I did. I was trembling and I said that I

did everything that they told me because I was trying to save myself and was redy to say anything I did not care what it was. Then the captain stopped and gave orders not to give me any more. He used a little partiality towards me—a little kindness or favor and then he asked me all about the farms there was about there and the condition of the farms and the corn crops. Then they asked me how I got into the house, whether I broke the lock. I told them I got in the window. Then they went behind the tree and laughed a little. They knew I was not telling a straight story, and then they told me I had better leave the county. I told them that I had done nothing to leave the county for. Then they asked me all about that stealing. I told them just as they had said because I wanted to get shut of the punishment. I told them I did not want to leave the county that I had done nothing to leave it for, that I had been true to the county and had been friendly to all my neighbors and I did not want to leave my neighbors. Finally they gave consent to let me go back to Mr. Tickle's that is all I know.

Q. How many of them were there? A. To the best of my knowledge from the bulk of the men there was about eight or ten. There may have been more. There were men standing by the tree that I do not think were there at the time they took me away from the house.

Q. Who is Mr. Lewis Tickel? A. He is a gentleman, a brother of Daniel Tickel, a man from whom I rented the house.

Q. Is he a white or a colored man? A. He is a white man.

Q. A man of property? A. Yes, sir, worth a good deal at this time.

Q. You were not tied when they whipped you? A. Yes, sir. My wrists were tied that way, (showing the wrists crossed,) then they threw me down, put my arms over my legs and ran a stick through.

Q. That is what is called "bucking?" A. Yes, sir, I was never treated so in my life. I never committed offence against

the civil law that I recollect, and have never been whipped by a white man except when I was small to make me mind.

Q. Were you whipped in that condition? A. Yes, sir, in that condition.

Q. Whilst being whipped did it hurt your wrists? A. Nothing more than except the twist. I cannot say that it made any scars on my wrist, but it twisted on my wrist.

Q. Did it strain the muscles? A. I cannot imagine any particular place, but it hurt me all over afterwards.

Q. Do you know how many licks they gave you? A. That is a hard question for me to answer. I will give you my best understanding. I will say between 75 and 80. If a man says less than 75, my back will contradict it.

Q. Was it severe? A. It was severe as the man could put it on; and they didn't put it on in different places, but they put it on the same place.

Q. Were there many scars on your back—many scabs? A. There was some few scars where they whipped me in a different place, but most of the whipping was done in one place. There was no skin left. There was a place in my back where you could lay a grain of corn, after it became corrupt.

Q. How long did you stop after that whipping? A. If you will allow me to go back I will state. That was on Saturday night, and I had a pair of shoes which I had bound when I had left to go to Mr. Louis Teikel's to work. It would not do to stop there in the condition in which I was, but I made out to put the bottoms on those shoes, which was about four hours' work for me. Had to do that and carry them home and get the money. I then came back and fixed myself and walked to Jim Sellers', the colored minister. There I finally gave out.

Q. How far was that? A. About three miles. I finally gave out and stayed there until Saturday morning, and I got up and then went to Graham the next day, and I was laid up for two weeks before I was fit to get a job or undertake to make any arrangements for myself.

Q. What kind of laugh was this they gave? A. A laugh as

if they were telling a little story or something. They had all clustered around behind the tree. They didn't say anything that I could hear, but rather whispered.

Q. Were you ever prosecuted about that alleged stealing? A. I never knew anything about it. I was never brought up for anything. I never swore but once, and that was on a warrant I got serve on a fellow. I never knew of this house being broken open before they prosecuted me for it.

Q. Did you have anything to do with Daniel Patton's house? A. It was like a dream to me. I never heard of it.

Q. Did you have anything to do with it? A. I did not have anything to do with it.

Q. Were you in the county at the time it was said to have taken place? A. They said I was but I did not know, and cannot tell.

Q. Were you in the county at the time this stealing took place? A. I believe it was in July that I came from Salisbury, but I did not know at the time they prosecuted me for it.

Q. Did you sue out a warrant before a magistrate for this whipping? A. No, sir, I never did anything about it.

Q. Did you know any of the men who whipped you? A. I cannot say I can swear to them, but if you will allow me to have my thoughts about it—strong evidence—I can say that——

The CHIEF JUSTICE. Don't state anything of the evidence except what you heard or saw.

The WITNESS. I had evidences of three. I knew one's walk, and his long beard was down. It was Peter Summers from his walk and beard. The other men I think from the size of the men, and their shoes was William Lowe and Rankin Lowe. The balance of the others I cannot say anything about.

Q. Were they men or boys? A. They called themselves men. They were not of age. I don't think I know them all.

Q. Were they full sized men? A. One was a man, but

whether he is of age I do not know. He was about 20 years old. They were full grown boys—you could see they were young.

Q. Why did you not have them indicted? A. I was thankful to get out of their clutches and I concluded I would say nothing about it. They told me not to do so. If I had any purpose to arrest anybody what would be the consequences. They didn't say what they would be, but they told me if I did, I could not get shut of them any more. I told them that if ever I did they might kill me. He said "I will not ask you to do that, but if you do we will do it any how."

Q. How long did you remain in Alamance? A. I remained in Alamance about fourteen days.

Q. How long did you remain in that neighborhood? A. I only remained in that neighborhood one day after it was done.

Q. Where did you go from there? A. I went to Graham.

Q. How long did you stay there? A. About a fortnight.

Q. Where did you go from there? A. I came to Raleigh.

Q. Where have you been living siuce you came to Raleigh? A. I lived with Mr. Blair about seven months and Mr. Rutjes seven months.

Q. Mr. Blair the keeper of the hotel? A. Yes, sir.

Q. And with Mr. Rutjes the keeper of the National? A. Yes, sir, and I lived with one gentlemen named William Andrews, but I only worked for him a month, and came right back in the hotel again.

Q. These persons whom you think you identify as having whipped you, were they white or colored? A. The color was very much different from darkies. One had a long red beard.

Q. Do you know of your own knowledge of any other outrages committed in that county? A. Nothing only Daniel Jordan.

Q. Were there other men in Alamance who had been

whipped? A. Yes, sir, there was a good many I have heard.

Q. Did you see Daniel Jordan? A. I did not.

Q. Did you see any person who had been whipped in the county? A. No, sir.

Q. Did you see any disguised me in Alamance at any other time? A. Not before that time.

Q. Since that time? A. Not since that time.

Q. You never saw them except at that time? A. No, sir.

*Cross Examination waived.*

JOSEPH E. HOLT, *a witess called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. SMITH.

Q. Will you state where you reside? A. In Graham, Alamance county.

Q. What is your age. A. I am about sixty-eight.

Q. Do you know anything about the circumstance under which Outlaw was taken out and hung? A. I did not.

Q. Did you see any disguised men on horseback in the streets of Graham? A. I did not.

Q. You never saw any disguised men passing through Graham on horseback or on foot? A. No, sir.

Q. Do you know a man by the name of George Rippey? A. Yes, sir.

Q. Is he white or colored? A. Colored.

Q. Do you know anything of his being whipped? A. Yes, sir.

Q. State anything that you know yourself in relation to it. A. I used to own the boy, and when tho United States troops came to Graham the boy did not live in the neighborhood. They all got free and he came to the company that was stationed there to report himself. He had been whipped and he sent for me, as I lived in the town and was his old master, to see him examined and to have justice done him. He did not know how to act.

Q. You went there in obedience to that? A. Yes, sir.

Q. How old a boy was he. A. He was about fifty.

Q. Did you see his back? A. Yes tir.

Q. What was its condition? A. He was badly bruised up—whipped up. He was whipped with a lash—with a strap.

Q. Could you form any idea of how many licks were given him? A. I could not; only he was very wonderfully bruised up.

Q. Whereabouts? A. All across his back. He had been struck terribly.

Q. Could you tell from the wounds whether he had been whipped with his clothes on, or on his naked flesh? A. On his naked flesh.

Q. Did the whipping extend below the shoulder? A. Yes, sir, all around the back.

Q. Was he stripped? A. Yes, sir, he was stripped when he was examined.

Q. Were there any gashes made through the skin? A. No, sir, it was all bruised.

Q. Was he complaining much of the injury? A. Yes, sir, he was complaining a good deal.

Q. Of severe pain? A. Yes, sir.

Q. When was that? A. It was about two years ago; it was December—the last of it, or January—when the soldiers were sent there.

Q. After they were sent there? A. Yes, sir; he came there and showed himself.

Q. What has become of him since? A. He is dead.

Q. How long did he live after that? A. He lived some two or three months, I suppose.

Q. Do you know what he died of?—what was the matter with him when he died? A. The report was where he lived, for I was not present when he died——

Q. You did not see him when he was sick? A. No, sir.

Q. Was he ever well after this whipping? A. He never was.

Q. Do you know whether he was laid up and had to go to

bed after the whipping? A. Yes, sir, he was laid up. All across his shoulders and back where he was bruised up by welts it had raised up in a puff and broke and run.

Q. Do you know whether any physician attended him? A. I don't know, he was up near Charlotte, where he went to Squire Freeland's, an old acquaintance of his.

Q. This was in Alamance? A. The whipping was. Where he died was not in Alamance. He moved up for—I don't know whether it was near Charlotte.

Q. What Freeland was it that he went to? A. 'Squire Geo. Freeland.

Q. Where is that—what county? A. I think it is in Mecklenburg county.

Q. Did he live in Alamance county at the time? A. I had owned him along for several years.

Q. Was he living with you at the time of this whipping? A. No, sir, he had left.

Q. Was he living in the neighborhood in which he was whipped? A. Yes, sir, in Alamance.

Q. How long after that was it that he went to Mecklenburg? A. Well, sir, he went off after he got up in a month or two—a short time, I do not know exactly how long.

Q. He was living there until he went away? A. Yes, sir.

Q. How long after the whipping was it from the appearance when you saw him? A. When I saw him the whipping was fresh.

Q. Had the whipping been within twenty four hours preceding—could you form any idea as to that? A. He showed very plainly.

Q. Do you know who administered the whipping? A. I know who he said did it. I did not see it.

Q. Do you know from the man himself who did it? A. The man himself acknowledged it.

Q. Who was it? A. Doctor Lutterloh.

Mr. GRAHAM. We object to that.

Q. [By the Chief Justice.] Did Dr. Lutterloh say that he was a member of the Kuklux, or anything of that sort at the time? A. He admitted it.

Q. [By Mr. Graham.] What did Lutterloh say—did he say he belonged to the Kuklux? A. Yes, sir, he said so.

Q. [By Mr. Graham.] To whom? A. To me.

Q. You had a conversation with Lutterloh afterwards? A. Yes, sir, and a pretty strong one at that too. We liked to have got into a fight about it.

Q. State what he said about whipping Rippey? A. He said to me—he wanted to pick a quarrel with me because I charged him, and he was displeased; he said I had charged him with being a Kuklux.

Q. I am talking about what he said about whipping the negro, I will come to that in a minute? A. I asked him what he was mad at, he said I had called him a Kuklux. I asked him if he had ever denied it, and he said he never did.

Q. How about whipping the boy? A. He did not pretend to deny it.

Q. Did he state how many persons were engaged there? A. There were several with him.

Q. Did he say it was in the night? A. In the night.

Q. Did he state whether they were disguised or not? A. No, sir, I did not talk to him about it.

Q. There were several in the crowd who were whipping Rippey, according to the statement of Lutterloh? A. Yes, sir.

Q. How long had you owned this man? A. Several years.

Q. What was his character? A. He was a bidable good boy.

Q. His conduct was good? A. Yes sir.

Q. He was respectful to white people? A. Yes, sir.

Q. Not impudent nor saucy? A. No, sir, he was a good boy and first rate servant.

Q. And remained so up to the time of his being free? A. Yes, sir.

Q. Has there been any prosecution against any body for this whipping? A. No, sir, there has been none.

Q. No public prosecution about this matter at all? A. None that I have ever heard of.

Q. Have you spoken about it publicly there? A. Yes, sir, I have. It was made public.

Q. And there has been no prosecution about it? A. No, sir, none at all.

Q. Did you try to have a prosecution about it yourself? A. I did not.

Q. It was publicly spoken of there by you? A. Certainly it was.

Q. Do you know what the state of feeling was between the colored people and whites in that section of Alamance? A. I think there was a good feeling, but there was a strong political feeling existing among the people.

Q. Between whites and blacks? A. There was.

Q. You do not know of any particularly bad feeling except that which was natural in drawing political lines? A. No, sir.

*Cross-Examination.*

By Mr. Graham:

Q. Did this George run away from Alamance county? A. No, sir, he left.

Q. Was he not one of these five men who went out in Allen Paisley's expedition? A. No, sir, I don't recollect when Allen Paisley went.

Q. Don't you know that Allen Paisley is in the penitentiary for whipping colored people? A. No, sir, he did not go out with him.

Q. Don't you know he was tried for it and sent to the penitentiary? A. No, sir, I do not; he never run away from the county that I know of.

Q. Did not you know of a fellow named Allen Paisley, and another named Dick Thompson, and another whose name I don't recollect, were sent to the penitentiary from Alamance?

A. I have heard of some negro boys, but I did not know what they were sent for.

Q. Was not George Rippey one of the persons concerned in that affair and did he escape being sent to the penitentiary by going away? No, sir.

Q. He was not? A. No, sir, he did not run away to escape the penitentiary.

Q. Was he not one of the parties that went with Paisley that night? A. I don't know that.

Q. Did you not know that he was connected with that affair? A. I don't know.

Q. [By the Chief Justice.] What did Lutterloh state to you at the time you quarreled? A. He did not tell me anything about that.

Q. What did Lutterloh state that he had whipped him for? A. I think it was something about a church that had divided their feelings and sentiments among them.

Q. Was Lutterloh in the same church? A. There was some trouble among them, Methodists and Baptists, in that church over there. I think that first originated that.

Q. Paisley was among them? A. Yes, sir, I think he was one of the preachers among them.

Q. They divided, and he got a whipping on that account? A. They said there was a whole parcel of whipping over there.

Q. Whipping of black and white people? A. The white people interfered I believe, and took a part.

Q. The blacks whipped each other first? A. I don't know but some did.

Q. How far did your information extend to George being of the gang that went with Paisley and whipped Henderson Coble and a man named Tom Woods and another named Monroe Freeland? A. I don't know that.

Q. Didn't Lutterloh say so at the time you and he quardrele? A. No, sir; he didn't talk anything about that.

Q. He didn't say anything about this division in the church? A. He did not.

Q. What did he say he had undertaken to whip that negro for, if he did whip him at all? A. He whipped him generally like other Kuklux. He only said that he was whipped, but he didn't say the cause of it.

Q. What did he say about that in your quarrel? A. He said he never denied but what he was a Kuklux.

Q. The point at this time is what he said he whipped this boy George for? A. He did not deny it, and never did.

Q. What did he do it for, did he say? A. I do not know.

Q. What did he say he did it for? A. He didn't say.

Q. Then how did you get at this conversation about Paisley? A. There was a whole parcel of whipping in that neighborhood.

Q. But how did you get at that conversation about Paisley? A. They said it was about a church.

Q. Lutterloh said that? A. He did not particularly say. That was what they were brought to court and tried in Graham for. They said it was some difficulty about a church.

Q. And they had whipped each other on that account? A. It was so said.

Q. I want to know whether, in the course of conversation with Lutterloh, what reason he assigned why this boy George was so whipped? A. He didn't state that. He said he had never denied it.

Q. Didn't he state what he had done it for? A. He did not.

Q. How was it that you quarreled? A. Quarreled because I called him one. I did that pretty quick.

Q. You called him what? A. I called him a Kuklux. I have called many others the same.

Q. He didn't deny it? A. He said he never did.

Q. When was this quarrel with Lutterloh? A. About the the time of our last court. I do not recollect the time exactly, the courts have been so irregular.

Q. Was it since George left the county or before? A. It was since.

Q. How long? A. A good bit.

Q. The court was in December, was it at that time? A. I believe it was about that time.

Q. What time was it that George left the county? A. It was in the spring.

Q. Did he leave the county before Paisley's party were put in jail? A. I don't recollect the time that Paisley went to jail.

Q. Paisley went to jail in February, 1870. Did you see George there after that? A. I don't think he was there since the court.

Q. He has not been there to your knowledge since February, 1870? A. No, I don't think he has.

Q. You saw him after he left the county? A. No, sir.

Q. You don't know anything about what he did except as you have heard it? A. I have seen him since he went away.

Q. Where? A. At Squire Freeland's.

Q. Was that after he left? A. Yes, sir.

*Re-Direct Examination.*

By Mr. Smith:

Q. You saw him once after this whipping? A. Yes, sir.

Q. Where? A. At Mr. Freelands'.

Q. How long after? A. It was a month or so after he went there.

Q. Was he ailing or well? A. He was complaining.

Q. That was the last time you ever saw him? A. Yes, sir, he has never been well since.

Q. What political party do you belong to? A. I don't know hardly what party, I am a whig and have always been one.

The hour of 2 o'clock and 30 minutes having arrived the court adjourned to meet to-morrow at 11 o'clock, a. m.

## TWENTY-SIXTH DAY.

SENATE CHAMBER, March 1, 1871.

The COURT met at eleven o'clock, a. m., pursuant to adjournment, Hon. Richmond M. Pearson, Chief Justice of the Supreme Court, in the chair.

The proceedings were opened by proclamation made in due form by the doorkeeper.

The CLERK proceeded to call the roll of senators when the following gentlemen were found to be present:

Messrs. Adams, Albright, Allen, Barnett, Battle, Beasley, Bellamy, Brogden, Brown, Cowles, Crowell, Currie, Dargan, Edwards, Eppes, Flemming, Flythe, Gilmer, Graham, of Alamance, Graham, of Orange, Hawkins, Jones, Latham, Ledbetter, Lehman, Linney, Love, Mauney, Merrimon, Moore, Moorehead, Murphy, Norment, Price, Robbins, of Davidson, Robbins, of Rowan, Skinner, Troy, Waddell, Warren, Whiteside and Worth—42.

Senator MOORE. I move, Mr. Chief Justice, that the reading of the journal be dispensed with.

The CHIEF JUSTICE put the question on the motion of Senator Moore and it was decided in the affirmative.

JEMIMA PHILLIPS, (colored) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCORKLE:

Q. Where do you reside? A. Over the other side of the river.

Q. In what county? A. Alamance.

Q. What is your age? I shall be seventy five if I live to to see the 20th day of August.

Q. Where did you live last year? A. From the 5th day of April until now I have lived over the river.

Q. Did you know Wyatt Outlaw? A. He was my son.

Q. Did you live with him? A. Yes, sir.

Q. When? A. I left after he was killed, the fifth day of last April.

Q. How long had you been living there before that time? A. Going on five years—after the surrender.

Q. Will you go on and describe what occurred at his house the last time you saw him alive? A. Yes, sir.

Q. How many rooms were there in that house? A. There were four.

Q. State who occupied the rooms? A. I occupied one and he had two, and there was another woman with the little children staying in the other.

Q. In the fourth room? A. Yes, sir.

Q. State who came there and when the last time you saw your son? A. Well, when I woke up out of my sleep, there were about twenty that come into my room.

Q. How did they get into the house? A. They bursted a piece of the button off the door; they could not get the button off; it was held by a screw and they bursted half the piece where the button was on and came in.

Q. Go on and tell all about it? A. They had great torches lighted. First they came and threw the cover off of me.

The CHIEF JUSTICE. Go on now and tell all they did and said.

The WITNESS. Then they said to me "Where is Wyatt—where is Henry Holt." One says, "Say! say! say!" There were two who had swords and there were pistols. One said, "Cut her head off," and another said "Blow her brains out." Then there was one workman among them—the apron was torn about this big outside [illustrating.] He had sleeves and had blackish clothes on.

By the CHIEF JUSTICE:

Q. Was that like an ordinary article of clothing or was it to cover him with. A. Could not help seeing him, there was a great torch light and he was the man that held the light.

Q. What did they do? A. They went out of that room

and as they passed, one says to the other, "Let us set the house afire," and they went around to the room and I heard the little child cry—that is the baby—"Oh daddy!" oh daddy!" I was at the middle door and I ran and opened that door and they were standing with the light so [illustrating] and they were all around him.

Q. Whom are you talking about—about whom? A. All around my son.

Q. Who was he? A. Wyatt Outlaw. He was putting on his pants, and I run back and got a stick and laid away as hard as I could. They jumped on me, they did, three of them, and stamped me, and I arose three times and they knocked me down, and then I hollowed for murder, and they went off with him.

Q. Went off with whom? A. With my child out of that room.

Q. How did they carry him—how did he go? A. They took him out of the room.

Q. Just led him off? A. Just led him off. He had not got his pants on, and they did not let him get his hat or anything, but just get his pantaloons on. They went right out towards the blacksmith's shop, and made him climb the fence, and went down street. It was all bright, as they had torches so that we could see.

By Mr. McCorkle, [resuming.]

Q. When did you see him after that time? A. I never saw him any more until they sent for me to the court house after they had cut him down; when Mr. Foust had come.

Q. When they sent for you where was he? A. He was lying on the bench—whatever it was, in the court house.

Q. Was he alive? A. No sir.

Q. He was dead? A. He was dead. They hung him on the 26th day of the month, the Sunday was the 27th, and he was buried the last day, twelve months ago.

Q. You said he only put on a part of his clothes? A. That is all they let him put on.

Q. Did he have his shoes on? A. No shoes at all, nothing but the pants and drawers.

Q. The next day when you saw him dead in the court house, what kind of clothes did he have on there? A. The same ones —a sort of purplish breeches it was.

Q. The same that he wore off? A. Yes, sir, and his suspenders.

Q. I understood you to say that when they started in that room you attempted to strike some of them? Did you? A. No, sir, they went out of the door; I never hit them only when I opened the middle door, and they were standing in the room, as I say; they were surrounding him, and I say who would not fight for their child.

Q. That is what I understood you. You say that when they got around them, then you commenced striking? A. When they got around him he was sitting putting his pants on, and a little baby child of his said, "Oh daddy, oh daddy!" and then I went and opened the door and went in there, and they had him with his pants on and they took him right out of that door.

Q. You don't answer my question; I ask you what you did to them; where you raised that stick? A. I said I struck at them as hard as I could.

Q. I understand that; now what did they do after you struck them? A. They stamped me.

Q. Did they say anything to you? A. Yes, sir, after they stamped they said, "G—d d—n you, you strike a white man?" and they stamped me three times, in my breast and on my head and my arms.

Q. Did they have any arms? A. Yes, sir, they had arms.

Q. What did they have? A. They didn't have no gloves nor nothing.

Q. I ask you if you had weapons—not arms like mine or yourself? A. They had some arms like mine and yours.

Q. [By Mr. Merrimon]. He means did they have any guns? A. They had swords and pistols and a sassafras stick.

Q. In what direction did they go with Wyatt after they crossed the fence? A. They went down toward Mr. Bason's along past Mr. Denny's.

Q. State whether they went in the direction of the court house or in a different direction? A. Towards the court house.

Q. How many persons do you say came into the house? A. There were about twenty.

Q. After they crossed the fence, did they walk or ride? A. They rode; the horses were hitched down at Mr. Bason's, and they came up that way. I went around another way. Some were in buggies; they come down Main street, and as they went around that way I came out around the house and listened, and they hollowed like geese, and they went as hard as thunder, riding.

Q. You say when they first got in there they asked for Wyatt, and who else? A. Henry Holt.

Q. Where was Henry Holt? A. I don't know where he was.

Q. He did not live with you? A. No, sir.

Q. How far did Henry Holt live from you? A. He stayed there about Hardin's,

Q. How far was that from your house? A. The other side, right across the street to Mr. Peter Hardin.

Q. How far?—a quarter of a mile or more? A. No, sir; it isn't a quarter of a mile from the court-house to there.

Q. How far is it from your house to Henry Holt's? A. That I don't know. I don't know anything about Henry Holt's house; I never had been in it.

Q. You have seen it, havn't you. A. I saw it afterwards—a little place behind the place that belonged to Mr. Clapp—a little house that they said was his.

Q. You don't know how far that was from your house? A. It was right close by the government lot.

Q. How far was it from where you lived—a half a mile? A. No, sir, right across the street.

Q. Did you know any of these persons that came into your house? A. No, sir. There was a workman amongst them because he had an apron and the apron was torn about that square on this side [indicating the right side and the size of the rent], and he had on sleeves coming right down so [again illustrating.]

*Cross-Examination.*

By Mr. MERRIMON:

Q. Were you examined before the coroner the next morning after you found your son hanged? A. Yes, sir, after he came there, and they had cut him down, then they came and took me. That was the first time I ever had been to the court house.

Q. They took you to the court house before a number of men, and asked you questions about it? A. Yes, sir.

Q. Like we are asking you to-day? A. Yes, sir.

Q. You say you saw one man, and know he was a workman by his apron? A. Yes, sir, Monroe Cook, the one that wrote this business, he wrote "Jemima Phillips and Wyatt Outlaw"; and then they made me kiss the bible.

Q. That is enough about that. Did you say a while ago that one of the men who took your son was a workman? A. No, sir, I said he was with them. I said he was the one that held the light.

Q. Did you say he was a workman? A. Yes, sir, I said he had a workman's apron on.

Q. What sort?—a blacksmith's? A. A carpenter's.

Q. Did you see his face? A. I didn't see his face.

Q. You saw nothing but his apron. How did you know it was a carpenter's apron? A. Because it was the fashion that carpenters have. There were sleeves here.

Q. Was it made of leather? A. It was cotton—or tow.

Q. I want to remind you about what you swore before the coroner. Didn't you swear that the man who held the torch, before the coroner, was a black man? A. No, sir, never swore that in my life.

Q. You never said that the man that held the torch when your son was killed, was a black man? A. No, sir.

Q. You never told anybody so? A. No, sir. I said it once and I say it again, I never told anybody so. I have heard that they said I did, but I didn't.

Q. Are you sure you didn't swear it on the examination before the coroner? A. Yes, sir, I didn't swear.

Q. You are sure of that? A. I am sure of it.

Q. Could you tell whether any of them were white or black?

Mr. SMITH. It strikes me, Mr. Chief Justice, that if the other side attempt to show any contradiction between the present statement of the witness and what she may have previously swore to, her attention should be called to her words, and the person to whom she said them.

The CHIEF JUSTICE. If you ask her if she did tell any one that it was a black man who held the light, you should name the party.

Mr. GRAHAM. We do not care particularly to ask her about any statements except her testimony at the inquest.

Q. I again ask you whether you said before the coroner that the man that held the light when your son was taken off was a black man? A. No, sir, I never said it.

Q. You said a while ago that some of them came in buggies? A. I heard them when they went down, after they had him.

Q. You didn't see it? A. No, sir, I heard it as it went down the street—the back street.

Q. Was it a dark night or a moonlight night? A. A dark night.

Q. Cloudy? A. Yes, sir, it was cloudy; it rained mightily the next day, and it had rained some that night; it was the 26th day of February.

JOHN S. MURPHY, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. What is your name? A. John S. Murphy.

Q. What is your profession? A. Physician.

Q. Where do you reside? A. Company Shops.

Q. State whether or not you treated Caswell Holt at any time within the last two years, and if so, state all about his condition and the time you treated him. A. I was called to see him in January I think, 1870—about January of that year.

Q. State why you were called in, and all about it. A. I was called in to see him on account of wounds that he had received. I was called in by William Hardin, the president of the board of county commissioners, to attend him.

Q. Describe his condition. A. He was badly wounded—there is no doubt about that.

The CHIEF JUSTICE. Describe how the man was?

The WITNESS. I think it was the right arm; and he was also wounded in the lung and right side, with a musket or rifle shot—cannot tell which. It was a gun-shot wound; and the left side and arm were very much peppered up with small shot, like bird-shot or squirrel-shot.

Q. How many wounds were there on his right arm? A. I think there was one on his right arm; there was a large gun-shot wound through the fleshy part of the right arm—I think it was the right arm. It didn't break the bone at all; it was just through the fleshy part, and another one through the side.

Q. Did the one through the side penetrate the lung? A. I think it did, yes, sir.

Q. What was the extent of the wound—severe? A. Yes, sir, severe. It was a mischief to him to have a wound through the right lung.

Q. How long did you treat him? A. Something like four or six weeks, I don't remember how long; six weeks probably, or may be two months.

Q. What effect did the wounds have upon him—what did they produce? A. I think they produced pheumonia—inflammation of the lung, I think.

Q. Was he disabled all the time from labor? A. Yes, sir.

Q. Was his condition critical at any time during your treat-

ment of him? A. Yes, sir, his condition was very critical. I asked Dr. Ruffin and one or two others to go in with me to see him, which they did.

Q. What was the result of your consultation? What was the opinion upon the consultation? A. We agreed as far as I remember, that he was suffering from pneumonia caused by a gunshot wound through the lung.

Q. What did they agree about his danger? Did they agree that he was in a critical condition? A. I don't remember. I think they did, asfar as I remember. It was very evident that he was in a very critical condition.

Q. Do you know of any outrages in your county of your own knowledge. A. Of my own knowledge I know of none, except I saw Wyatt Outlaw hanging to the limb of a tree.

Q. What time was it that you saw him? A. In the morning.

Q. About what hour? A. I think it was about nine or ten o'clock.

Q. Do you know of any other outrages in the county? A. No, sir, I do not.

Q. Did you ever see men disguised in the county within the last two years? A. I never have.

*Cross-Examination.*

By Mr. MERRIMON:

Q. Did you know anything about this patient of yours, Caswell Holt, outside of the attention you paid him as a patient? A. Well, sir, I cannot say that I knew much. He worked for me a few days, and I had one of his boys for a month, hired——

Q. What I want to know is, do you know his reputation?

A. Well, sir, I cannot tell you that I do; the first time that I ever saw him in my life to know him——

Mr. MERRIMON. Never mind.

Q. [By the Chief Justice.] You need not go into a history of the matter. Just state whether you know anything about his reputation? A. Well, sir, I don't know his reputation. The first time he came to my house he had a gun on his

shoulder and four or five dogs with him, and he demanded his son. He did not impress me very favorably.

Q. Are you acquainted with the state of feeling between the white and black people of that county, to any extent? A. I cannot say, sir, that I am.

JOHN ALLRED, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCORKLE:

Q. Where do you reside? A. About eight miles south of Graham, in Alamance county.

Q. What is your age? A. About forty-two.

Q. Go on and state whether you were ever visited at night by disguised men, &c., and what did they do to you? A. Well there was a parcel of men came to my house one Saturday night.

Q. State when it was? A. One Saturday night the last fall a year ago, I think it was September.

Q. September, 1869? A. Yes, sir.

Q. What time in the night? A. Betwixt twelve and one o'clock. I was asleep and was waked up by a powerful noise—a tremendous noise—and I soon found out that it was the Kuklux, or I thought so, and I told my wife to get up and tell them I was not at home. So I lay still and she got up and through a light broke out of the window they talked to her and she answered them—a parcel of foolish talk, as I thought.

Q. Just state what occurred between them? A. They asked her where I was, she told them I was gone over to Alamance creek. Well he said he liked a woman that would tell the truth, for he was a woman himself.

The CHIEF JUSTICE. What was said?

The WITNESS. My wife said I was gone over to Alamance, and he says, "That is in New York, where we come from," and says he, "I like a woman that will tell the truth for I am a woman myself." Then said he, "What is your

husbands's name?" "Allred." she says. "Well," he says, "You tell him when he comes home that if he don't change his politics and be a white man we will cut his throat next Saturday night," or "make his throat red"—I don't recollect which—I didn't understand that, directly, but it was one or the other.

Q. Repeat what was it they said? A. I was listening myself. They said to my wife, "Tell him when he comes back if he don't change his politics we will cut his throat," or "make his throat red," and I don't know whether it was "make his throat red," or "cut his throat the next Saturday night." Then they went "Kukluck! Kukluck!"—off down the road.

Q. What did they say when they went off? A. "Kukluck! Kukluck!" I don't know how many there were. It was a dark night and it had been raining the fore part of the night. It was not raining then, and did not rain until the next morning after sunup.

Q. What did you discover the next morning, and what did you do? A. I didn't sleep any more that night, but the next morning I got up and went out to the gate. It looked as though there had been four horses there that went off. I took the track and tracked them about a mile and a half, and there I found——

Q. All horse tracks? A. No; one was a mule.

Q. Three horses and one mule? A. Yes, sir; they had a white horse, and I found a white horse the next morning.

Q. [By the Chief Justice.] You went a mile and a half and tracked them, then what? A. I went up to a man's house, and there I found three men, and the man of the house, and a white horse feeding in the lot on some fodder, and I saw three men going out across the road to the stable—to the barn. Said I, "What gentlemen are those?" Said I, "I know one of them; who are those others?" He told me. Said I, "How far is it from here?" I had just moved from Graham and went down there. I had not been down there a great while,

and I was not acquainted out east, but I had been at Mr. Sharpe's before.

Q. State whose house it was where you were? A. Mr. Rooney.

Q. Which Rooney?—what was his Christian name? A. John—John Rooney.

Q. Who else did you find there? A. James Foust and Mike Thompson, and he told me the other. I think his name was Thompson. I knew Mr. Foust very well.

Q. Was it James Thompson? A. Mike Thompson.

Q. Where is Mike Thompson now? A. He lef this country.

Q. When did he leave this country? A. Well, it has been a right smart time—about the time this man Kirk got to this country.

Q. You say that you discovered a white horse up at this stable? A. Yes, sir; it was dark.

Q. You have not stated what kind of horses you saw at your house? A. I could not tell. There was one white horse though in the crowd.

Q. You could tell that one was white? A. Yes, I tracked them afterwards.

Q. You said from the tracks you thought there were three horses and one mule? A. Yes, sir.

Q. Did you find any mule up there? A. Yes, sir.

Q. Did you see those parties ride off and leave Mr. Rooney's? A. No, sir, I did not; I didn't stay there but a few minutes.

Q. Do you know what kind of a team Mr. Rooney had—what kind of animals Had he horses, mules or what? A. Well, he owned a horse, I think, at that time—a horse or two.

Q. What kind of a horse? A. I don't recollect.

Q. Was it a white horse? A. No, sir; I know it was not a white horse. I don't know whether it was black; I have seen him riding several times. He didn't have a white horse.

Q. Did you ever try to arrest these parties? A. No, sir.

Q. Why? A. Well, I just thought it was unnecessary and said very little about it.

Q. Why did you think it was unnecessary?

Mr. GRAHAM. I think that is a sufficient answer that he thought it unnecessary.

Mr. McCORKLE. He has a right to give his reasons and we have a right to know what his motive was.

Q. [By the Chief Justice.] What was the reason? A. Well, that is the reason I didn't think it was necessary. I didn't think I could do anything with them.

*Cross-Examination.*

By Mr. MERRIMON:

Q. Was it a dark night? A. Yes, sir, very dark.

Q. Were those men disguised? A. They looked dark. I don't know whether they were or not.

Q. Did you get up and go to the window to look at them? A. No, sir, I was lying on the bed. I was looking out and listening; the light broke out of the window.

Q. What was it you were doing? A. I was lying on the bed and looking out of the window, and my wife was at the door. There was another light broke out; there was some paper over it.

Q. How far is your house from the road? A. About ten steps.

Q. Was there any light burning in the house? A. No, sir.

Q. You say you saw a white horse? A. Yes, sir. It was very dark.

Q. You followed them by the tracks the next morning, and discovered what you have stated? A. Yes, sir.

Q. They didn't cut your throat? A. No, sir.

Q. They didn't "make it red?" A. No, sir.

Q. Did you accuse them that morning of being at your house? A. No, sir.

JACOB MURRAY, (colored) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCorkle:

Q. What is your age? A. I don't know exactly my age—I reckon about twenty-five, along there somewhere.

Q. Where do you live? A. I stay in Alamance, sir.

Q. Go on and state all you know about persons coming to your house—whether they were disguised or not, and all they did. A. They came to my house in the first place ——

Q. When was it? A. It was the Saturday night before christmas.

Q. This last christmas or christmas a year ago? A. This last christmas a year ago.

Q. [By the Chief Justice.] Go on and tell all about it. A. They came there and the door was shut. They broke down the door and threw it in the middle of the floor, and they commenced shooting—I don't know how many times they shot.

Q. Who went in there? A. Well, sir, I didn't know any of them.

Q. State how many, and whether they were disguised. A. There were eight came in the house, but out of doors I don't know how many there were.

Q. What kind of clothes did they have on? A. White clothes, and horns. They had long white gowns on.

Q. How were their faces? Did you see their faces? A. Yes, sir, they had white faces with quills in their mouths—I reckon they were quills, they looked like quills. They were not natural teeth.

Q. Go on and state what they did. A. Eight of them came in there, and my wife had a baby about four months old, and they run over her, and knocked the child out of my wife's hands and my wife says, "You musn't kill my child, and she picked it up and the breath was out of the child.

Q. You say they ran over it? A. Yes, sir, they ran over it, because a saw that myself. She picked it up and shook it a while, and the breath came again after a while, and the child didn't live but a week after they left. It was mashed inside

and it never could be better any more. It just lay from that till it died.

Q. State whether it was well before they came there. A. Yes, sir, it was well and hearty before that night.

Q. How long did you say it lived after that time? A. It lived a week—just lay and cried just a week after that, and never did get over it till it died.

Q. Did I understand you to say they shot in your house? A. Yes, sir, they shot.

Q. Did they have guns? A. Pistols and guns. Well, I dont know whether there were any bullets in only one. I saw where they shot up against the joist of the house—there was one sprint of a pullet in the log.

Q. They shot up? A. They shot up in the log. There was a sprint of a bullet in the log; that is all I could see.

Q. State who was at your house that night. A. Which? white men or black men?

Q. Who was there when these men came? A. Damon Holt, Greene Freeman, and Greene Murray—that is my father—and Chester Faucett. I believe those are all I can call to mind now.

Q. What did they do with them? A. Well, they whipped Green.

Q. Were you present? A. No, sir, I was not present.

Q. How do you know they whipped him? A. Well, they carried them off. I heard the licks over there in the woods; it was not far from the house—I reckon about a hundred yards I heard the licks clean from the house. I was in the house though; I didn't go out. They carried out him and Greene.

Q. Greene who? A. Greene Freeman.

Q. You say they carried out Damon Hall, Greene Freeman, and who else? A. Jerry Lynch—they carried him out.

Q. Was anybody else there? A. Yes, sir, there were a good many there, but they didn't whip only those three.

Q. Ned Stroud—was he there? A. No, sir, I don't think he was there.

Q. How did they carry Damon Holt out? A. They carried him by his arm—pulled him out. They didn't tie him in the house; I don't know whether they tied him after they carried him out or not.

Q. How did they carry Greene Freeman out? A. They led him out by the hand.

Q. And Lynch also? A. Yes, sir, led them all out.

Q. Where were they carried to.? A. Down in the woods, I reckon about a hundred yards from the house.

Q. Did you hear anything that occurred down there? A. Yes, sir, I heard them hallooing, and I heard the licks.

Q. You heard these parties—Damon and Greene, and Jerry—hallooing, and you heard the blows or licks? A. Yes, sir, I heard them.

Q. State whether they returned? A. They returned the next morning, just about ——

Q. The three whipped men, I mean? A. Yes, sir.

Q. When did they get there? A. The next morning.

Q. What time in the morning? A. Well, sir, it was about sun up the next morning.

Q. Did you examine any of them? A. No, sir, I didn't examine any of them. I didn't see any mark on them—only a few marks on the face.

Q. On whose face did you see any marks? A. I saw that on Greene's face. I didn't see any on Damon's face. I saw some on Greene's face where they cut him over the head and over the eyes.

Q. Were those marks on him before he went out of the house that night? A. No, sir.

Q. You are certain of that? A. Yes, sir, certain of that.

Q. Had you ever seen any disguised men in that county before, or have you since? A. No, sir; I had not seen any o them.

*Cross-Examination.*

By Mr. MERRIMON:

Q. What were all those people doing at your house tl

night? A. They were frolicking and playing; going on very well, enjoying themselves; behaved themselves very nice.

Q. How came the child to fall out of your wife's lap? A. Well, they ran over her, sir.

Q. What did they run over her for? A. Well, sir, because they were after—they said they were after Damon; said they wanted him.

Q. What did they go over her for? A. She was standing on the floor, and they just run over her and knocked the child out of her arms.

Q. I thought you said they knocked it out of her lap? A. She sat in an arm chair, with the child in her arms.

Q. And you say it fell to the floor? A. Yes, sir.

Q. And it mashed its insides? A. Yes, sir.

Q. Are you sure of that? A. Yes, sir.

Q. Did she have any doctor to examine it? A. No, sir.

Q. Why didn't you get a doctor? A. Well, sir, she didn't think any doctor was necessary, so she didn't take it to any doctor at all.

Q. The men were not there to do anything to you and your wife? A. Well, sir, they didn't do anything to me; they only just mashed the child; that is all they done.

Q. How did they mash it? A. Well, they ran over it.

Q. Did they put their feet on it? A. Yes, sir; they put their feet on it after they knocked it out of her arms.

Q. Just went and put their feet on it? A. Yes, sir.

Q. You saw them do that? A. Yes, sir.

Q. Didn't you see them go up and kick it? A. No, sir; they didn't kick it.

Q. Did they stamp it? A. No, sir; they just went up to it and——

Q. Put their feet on lightly? A. Yes, sir, just mashed. I don't know whether they put it on lightly or not, they put it on hard enough to mash it.

Q. Just went up to it and put their feet on? A. Yes, sir.

Q. Did they stand upon it? A. They put one foot on and

didn't stand up on it, not their whole weight, I don't reckon.

Q. The child never had been sick before that? A. No, sir.

Q. And died about two weeks afterwards? A. A Week, sir.

Q. What did they whip those men for? A. Well, sir, I don't know what they whipped them for.

Q. What did they say they whipped them for? A. They didn't tell me what they did it for.

Q. What did they tell them they had done it for? A. They didn't say.

Q. They didn't say in the house? A. They didn t say in the house. I don't know what they said after they got them out.

Q. Nothing was said in your hearing about what they whipped them for? A. No, sir.

Q. How many people were at your house that night? A. Well, sir, I reckon there were about twenty.

Q. At the dance? A. Yes, sir.

*Re-Direct Examination.*

By Mr. McCorkle:

Q. I understood you to say that this crowd said they didn't want you, they wanted Damon. A. Yes, sir, they were after Daymon they said.

Q. I understood you also to say that they ran over the child.

Mr. MERRIMON. He didn't say that.

Q. What was it you said about their running over the child and mashing it? A. I said that my wife was standing in the floor, and they knocked the child out of her ——

Q. State how they knocked it out. A. When they were after Damon they knocked the child out of her arms.

Q. As they were after Damon—pursuing him? A. Yes, sir, and then they stepped on the child.

Q. State whether they stepped on it while they were pursuing Damon? A. Well, sir, they were going that way.

Q. You don't pretend to know whether they did it on purpose or not? A. No, sir, I can't say whether they did.

Mr. GRAHAM. The gentleman is leading the witness all the way.

Mr. MERRIMON. He said at first that they knocked the child out of her lap.

Mr. McCORKLE. He said at first that they ran over it.

Q. You say now you don't know whether they did it intentionally or not, but that they were after Damon at that time? A. Yes, sir.

Mr. BRAGG. The objection is, that the question is leading.

The CHIEF JUSTICE. I think every senator knows that the witness says they were after Damon and knocked the child out of the woman's arms; and that he does not pretend they did it on purpose.

Mr. BRAGG. The witness stated distinctly on cross-examination, in response to a question, that he saw one of them go up and put a foot on the child.

Mr. McCORKLE. But he did not say the man did it intentionally, and it was with that view that I asked him the question.

The CHIEF JUSTICE. The presiding officer supposes every senator knows what the witness intended to communicate.

Q. You said, then, that there was a party at your house, and and they were all behaving themselves? A. Yes, sir.

Q. What time of night did you say these men got there? A. Well, sir, I reckon it was about eleven o'clock, sir,—as well as I could guess.

DAMON HOLT, (colored,) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCORKLE.

Q. How old are you? A. About eighteen years old.

Q. Where do you live? A. I live at Dr. Walker's.

Q. What county? A. Alamance county.

Q. State whether you have ever seen persons disguised, and all about it. A. Yes, sir.

Q. When was it? A. The last Saturday night before this last christmas was a year ago, I was at Jacob Murray's house at a frolic, and we were in there frolicking and playing and going on, and there were a parcel of disguised people—at least they looked like people—came to the door and bursted the door down——

Q. State how they were disguised? A. They had long white dresses on, that came clean down to the floor, and had some sort of something or other on their faces—it looked like a great long ear; they had horns out so right from the head, [ilustrating,] two horns right here, and red bobs on the end about an inch long. They came in, bursted the door down and called out for Damon Holt. I was scared, and run under the bed, and they come. They called me and I wouldn't answer. They said, "Come out of there; if you don t come out of there, G—d d—n you, I'll shoot you." I got up and came on out, and they gathered me, one by the arm and one by the hand, and told me "to follow them, G—d d—n me, that they were going to hang me." I asked them what they were going to hang me for—I hadn't done anything. They said, "Never mind, G—d d—n you, I will let you know what I am going to hang you for." They took me then, and one says, "Trot up; if you don't trot up, G—d d—n you, I'll kill you right away." They took a stick and punched me in the back and made me follow them out in the woods about a hundred yards from Jacob Murray's house, and there they took my shirt off and made me hug around a tree, and gave me about sixty licks, I reckon. I was so scared I didn't count the licks, but from the marks on my back it looked like they gave me about sixty or seventy licks—some three or four of them. Four whipped me at a time; and then they turned me loose and told me to run. I then took a run down into the hollow back towards the house, and they shot at me. I ran on up towards the fence, got to the fence and went into the barn and lay there all night.

Q. Whose barn did you go into? A. Mr. Joseph Merritt's.

Q. You lay there all night? A. Yes, sir, lay there till day-break, and then came back and got my clothes.

Q. State whether it was warm weather or not. A. No, sir, it was pretty cool weather.

Q. You had no clothes? A. No clothes on, sir, at all; I didn' have any clothes, any more than my pants; had my pants on, but had no shirt on at all. They tore my shirt all to pieces —off of me.

Q. How many men were there? A. There were about seventeen disguised looking men.

Q. How many of them whipped you? A. There were four whipped me at once.

Q. How did the four manage to whip you at once? A. They made me kneel down, and they just whipped me all over my head and all over me every-which-way—all around.

Q. Whilst you were hugging the tree? A. Yes, sir, I was hugging the tree—down on my knees hugging the tree; and they shot me—they didn't shoot me with a gun, but with a hickory, all over my head back here, and the scars are on me now.

Q. Did they have arms? A. They had pistols—all I noticed was pistols and sticks.

Q. You say they shot at you after you left? A. Yes, sir, they shot at me after I left.

Q. When you were running? A. Yes, sir, they told me to run; when they got done whipping me they said, "God d—n "you, now run." I got up then and ran, and they shot at me as I was running.

Q. How far were you from them when they shot at you? A. I was about as far from them as from here to that side of the house, [indicating the end of the senate chamber,]—about fifteen steps.

Q. State if any other persons were carried out at the same time that you were? A. Yes, sir, Greene Freeman and Jerry Lynch were carried out at the same time.

Q. Do you know what they did to them, of your own know-

ledge? A. Yes, sir, they whipped them—whipped Greene Freeman and Jerry Lynch both.

Q. How far did they whip them from where they were whipping you? A. Well, sir, they whipped us sort of in a line; the furthest one was as far from us as from me to you, and the next one about as far as half way betwixt me and you.

Q. Were you turned loose before the others were or not? A. No, sir, they whipped me the last. I was the last one they whipped.

Q. What became of Greene Freeman and Jerry Lynch? A. Greene Freeman ran around through the woods there. I don't know what became of him. He went on home, I guess, for I never saw him any more that night. And then they whipped Jerry, and Jerry went on over the fence apiece, and he was lying down in the corner of the fence, and I came upon him, and he and I got together there and went on to Mr. Merritt's barn and lay there.

Q. State what clothes he had on when you found him in the corner of the fence? A. He had nothing on but his breeches. Me and him went back the next morning together and got our other clothes.

Q. State what they said they whipped you for? A. They never said what they whipped me for.

Q. You don't know how many licks either of the others got, from your own knowledge? A. No, sir, I don't know how many licks the others got.

Q. You can state whether the whipping was light on these other parties? A. No, sir, it was not light—that is, on Greene Freeman and Jerry Lynch. They whipped them pretty hard.

Q. Did you see their backs? A. Yes, sir, I saw Jerry Lynch's back. Greene Freeman I couldn't see, though I could hear the licks.

Q. What did they whip you with? A. Well, sir, I never went back to see the hickories—I never saw what kind of hickories they whipped me with; but they whipped me with hickories.

Q. What was the condition of Jerry Lynch's back when you saw it? A. His back was cut up in scars,—all over his back.

Q. Had you ever seen any disguised persons before that time or have you since? A. No, sir, I had never seen any before that time, and never have seen any since.

Q. Do you know of any other outrage that they committed, of your own knowledge? A. No, sir, I do not know of any more.

Q. Had you ever seen anybody's back? A. No, sir, I had never seen anybody else's back.

Q. Nor since? A. No, sir.

Q. Do you know anything about a child being run over or not? A. The child was run over at that houses, when I was under the bed and I didn't see the child. I was scared so I didn't see the child. The next morning I came back there and the people were uneasy, and I got my clothes then and borrowed a hat.

Q. Did you see the child the next morning? A. No, sir, I didn't see the child, for I just went to the door and they gave me a hat and I kept right on home.

Q. When you were under the bed and they were after you, state whether there was any noise in the house. A. Yes, sir, there was a noise in the house, but I was under the bed—I didn't see out.

Q. Was there any crying? A. I could not tell whether there was any crying or not; they were keeping so much fuss, like the baby crying and going on.

Q. Describe the noise that these people made? A. Well, they made a fuss like a cat and like chickens; a fuss like dogs.

Q. Did you know any of the parties? A. No, sir, I knew nothing about the parties at all.

Q. Did you know any of them? A. I didn't know nothing of no party at all, for I stayed there at home.

Q. But I say did you know any of those persons that were there? A. Oh yes, sir, I knew the persons that were there.

Q. These disguised persons? A. No, sir, I didn't know the disguised persons.

Q. Who was there belonging to that party that you refer to, colored persons? A. Well, there were women and men there; I was very well acquainted with some of them, and some of them I was not.

Q. We want to know how many men were there?

The CHIEF JUSTICE. Fifteen or twenty.

The WITNESS. Yes, sir, fifteen or twenty, men and women.

Q. Of your colored friends? A. Yes, sir, colered persons.

Q. What became of them? A. The people stayed there until the next morning, and when I came back there they started. I left them then, and went on, and some of them came on home, and some of them did not—I left them still there.

Q. Was there ever any indictment against any of these parties? A. No, sir, not that I know of.

Q. These persons that whipped you—were they ever indicted? A. No, sir, not as I know of.

Q. You did not indict them? A. No, sir.

Q. Why didn't you indict them? A. Because I wouldn't indict them—I was scared and afraid if I done anything or said anything they might come and kill me.

*Cross-Examination.*

By Mr. MERRIMON:

Q. I thought you said you didn't know the men that whipped you? A. I didn't know the men that whipped me.

Q. How could you indict them? A. I couldn't indict them unless I knew them. I say they looked like men—they had arms and they stood up like men.

Q. You say they didn't tell you what they whipped you for? A. No, sir, they did not.

Q. Did you hear them say what they whipped the other colored men for? A. No, sir.

Q. You didn't hear them say that evening? A. No, sir.

Q. With whom were you living at that time? A. With Dr. Walker.

Q. Were you charged with any offence in the neighborhood? A. Charged with what?

Q. Didn't they say you had stolen something in the neighborhood? A. No, sir.

Q. No charge of that sort made against you? A. No, sir.

Q. No charge made against the other two men? A. There might have been, I couldn't say.

Q. You don't know that there was any charge against you? A. No, sir, I don't know whether there was any charge against the other men or not. They never said anything against me more than to whip me.

Q. How came they to take you three and leave the balance that were there at the party? A. I don't know. They must have had something against me.

Q. You don't know what it was? A. I don't know what it was; it was against us,

Q. They didn't tell you? A. No, sir, they didn't tell us what they had against us.

Q. You say there were fifteen or twenty colored people there? A. Yes, sir.

Q. Women there too? A. Yes, sir.

Q. How many? A. I don't know how many women.

Q. How many in the whole party? You meant about twenty when you said the whole party? A. Well, of the women and men, I allowed there was about twenty.

Q. They only took you three? A. That is all.

GREEN FREEMAN, (colored) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCorkle:

Q. How old are you? A. Twenty one.

Q. Where do you live? A. Alamance.

Q. Go on and state what you know about persons going about disguised? A. I was at this spree at Jake Murray's

and the Kuklux came and broke the door down and they called for Damon and hunted around and got him and they took me and Damon and Jerry Lynch out and whipped us.

Q. How many were there of them? A. Do you mean disguised people.

Q. Yes? A. I don't know I never counted them.

Q. Can you tell what they did? A. Three of them took me out in the woods and told me to take off my shirt and coat and jacket.

Q. Did you take them off? A. Yes, sir.

Q. What did they whip you with? A. Switches.

Q. How many licks did they give you? A. They hit me about six licks apiece; they used pronged switches.

Q. How do you know it was a pronged switch? A. I saw them when they broke off a limb of dogwood.

Q. Each gave you six lashes? A. Yes, sir.

Q. State whether you were badly hurt? A. Yes, sir, my back was very dreadful the next morning, scars all over my back and welts, there was licks on the back which looked as if there was about seventy-five.

Q. You were badly scarred up? A. Yes, sir.

Q. State whether the scars are permanent or not, state whether they are on you now? A. Yes, sir, there are some on me now.

Q. Where did you go that night? A. I went home and got some clothes, then I went out in the woods.

Q. Did you carry your clothes with you? A. No, sir.

Q. What kind of weather was it? A. It was a cool night, not very cool and not very hot.

Q. How far did you have to go? A. About a mile.

Q. You say you got your clothing? A. Yes, sir, I went home and got some other clothing.

Q. Did you get the clothes they took off you? A. No, sir, I did not get them until the next morning I did not get them that night.

Q. Where did you get them? A. Jacob Murray's. They

brought them to the house and I went the next morning and got them.

Q. Your impression is that they gave you seventy lashes? A. Yes, sir.

Q. You say you were carried out of the house? A. Yes, sir.

Q. At Jake Murray's? A. Yes, sir.

Q. State whether they had any weapons or not? A. Yes, sir, they had pistols, swords and sticks.

Q. Do you know anything about their running over anybody in that room? A. No sir, I did not see them run over anybody.

Q. Was there any crying in the room before you were taken off? A. Yes, sir, I heard some cry.

Q. What? A. I heard the child cry.

Q. Before you left? A. Yes, sir.

Q. How many rooms were there in that house? A. One room.

Q. How many persons were there that belonged to the party? A. I don't know, there was a right smart crowd.

Q. I do not allude to the disguised persons? A. I don't know how many there were of those.

Q. A good many? A. Yes, sir, right smart.

Q. And a good many came in the house disguised? A. About eight.

Q. State whether the room was nearly full that evening or not? A. It looked nearly full before they came, and when they came it was all filled up in such a pile I could hardly tell, there was a right smart lot.

Q. Were any of those parties ever tried for what they did to you? A. Not as I know of. I never heard tell of it.

Q. Why did you not have them indicted? A. I did not know who to indict.

*Cross-Examination.*

By Mr. Merrimon:

Q. Do you pass for a colored or a white man? A. Colored.

Q. Did they state that night what they whipped you for. A. No, sir.

Q. Do know what they whipped you for? A. No, sir.

Q. Was there any charge against you at any time? A. I never heard any that I know of.

Q. Who do you live with? A. My mother and step father who live in the house of Steve Dixon.

Q. At Mebanesville? A. Yes, sir.

Q. Was the whipping in Alamance county? A. Yes, sir.

Q. How far do you live from Mebanesville—do you live in the town? A. No, sir; about a quarter of a mile.

Q. How far was that party from Mebanevsille? A. About a mile or a little over. They call it about a mile.

Q. Toward Graham or which way? A. Up towards——

Q. Hillsboro'? A. Towards Caswell.

Q. Who was the justice of the peace there at Mebansville? A. I don't know.

Q. Why did they take you three out and not take the balance? A. I don't know.

Q. You have no means of knowing? A. No, sir.

Q. There was no charge against you? A. No, sir.

Q. You never knew of any? A. I never heard of any.

Q. How big was that house? A. I don't know how large it was.

Q. How large a room, just describe it? A. There was only one room it; was about as far as here to that post but not quite so large the other way.

Q. About twenty feet square? A. About twenty feet one way.

The counsel called the name of Jerry Lynch, but there was no response.

Q. (By Mr. Boyden.) Do you know where Jerry Lynch is? A. He is not here I have not seen him since that night.

JOHN BASON, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCorkle.

Q. State your age and where you reside? A. I reside in Alamance county, two miles from Graham.

Q. How long have you been living there? A. I have been living there on and off for twelve years.

Q. What office do you hold there? A. Postmaster.

Q. How long have you been postmaster? A. Going on four years.

Q. [By Mr. Graham.] Postmaster where? A. At Haw River.

Q. Go on and state whether you know of any disguised persons visiting you and when it was? A. Sometime in 1869, August, either the latter part of August or the first of September—I will not be positive which it was—it was in very warm weather—I went to the depot—the train came in about ten o'clock at night as near as I recollect now,—to get the mail. The depot is about three or four hundred yards from where I live. I went and got the mail and came on back and opened it, and gave out the letters to all the persons who were there. They had all left and I went out on the store piazza. It was quite warm. I was then guarding Mr. Holt's factory.

Q. Whose factory? A. Thomas M. Holt's. I sat down on the store porch and staid there I reckon a quarter of an hour, or it may have been longer, and I saw a man coming from towards the well, but he was not disguised at the time. He came on along by me within about fifteen steps, but I did not know him. I thought it was Mr. McAdams who had been to Graham and was going on home. He went on under the hill and I staid there a few minutes, and then afterwards the thought struck me that it might be somebody who was going to the factory to do some mischief, so I went to the factory and walked about the factory from under the hill. I could not see anybody at all. I then walked up to Mr. Holt's office and walked a few steps and sat down on the door steps right by the door. I had been sitting there some fifteen or twenty minutes when I saw seven or eight disguised men dash in each

end of the store piazza and they run over the chair where I was sitting on the piazza before I left, and they made a right smart fuss. They found I was not there, and they dashed into the counting room of the store where Mr. Williamson was sleeping. They staid in there I reckon a minute, perhaps a little longer, and they came out of there and came running under the hill to where I was sitting in the office until they got to within fifteen steps of me. I got up and they halted. Two of them just dropped in, two abreast, side by side, one with a four shooter and the other with a long knife which looked as if it was twelve or fifteen inches long, with a blade about an inch and a half wide, which looked as if it had been made in a blacksmith's shop. When they came pretty close to me, I spoke to them and asked them what they wanted. They did not make me any answer. I asked them what I had done and they failed to answer me then they gave a sort of a grunt like a hog when he gets scared. Then they walked in front, and the balance behind. I asked what they wanted, and what I had done? They made no answer at all, but they kept sauntering around. They didn't take hold of me the first time a right smart bit, but they sauntered until one got one side and the other the other, and another man caught me by the arm, and another by my feet, and jerked my feet from under me. I live the furthest house from there, and I could see the folks looking down the road to see what was going on, and I hallooed, thinking that they would come to my relief. I reckon we scuffled fifteen minutes on the floor, until I got so warm that I was nearly exhausted. I told them that if they would let me alone I would get up and go with them if they wanted me; that I had done nothing, and was not afraid to go with them anywhere. There were six or seven on me, but I got them to let me up. I tried to prevail on them not to tie me, but they tied me pretty severe.

Q. How? A. In this way, (showing his writs crossed.) One man took me, and a part of them kept away, as they were afraid I would know them I reckon. He had on white clothes

and was disguised by a cap on his head down over his face, and he had what looked to be a coon skin, or some sort of bride like a billygoat under the chin.

Q. Were they all disguised? A. They were all disguised. The first one was not disguised when I saw him first. They were so disguised that no man could tell who they were by looking at them. I looked at them. I was not frightened a bit, and I looked right straight in their faces, and talked to them all the time, but they would not make me any answer, and I didn't get any.

Q. Go on? A. They tied me and took me the road they came. They took me down towards the hill out in the big road between the depot and where Mr. Swepson lives, and they passed by the gate, and when they got beyond the gate under the culvert they halted and mumbled something, I could not tell what. They opened the gate and got through the field. There was a road went down to the railroad. They took me down to the railroad between a half and three quarters of a mile when they came to where there was a branch running through in a field under the railroad. They took me down in hollow, and threw a rope over a limb. There were a good many cedar bushes, and they gave me I suppose three or four licks apiece.

Q. What with? A. They were switches, but it didn't hurt me except one. One hit me two licks. I think he did it with a cedar limb, and that hurt me pretty bad. He struck me on the the legs. Except those two licks they didn't hurt me of any account.

Q. And each gave you three or four licks? A. Yes, sir, they gave me three or four licks apiece, and then they went off and caucused awhile. Then one came back and hit me two licks across the legs with this cedar limb which hurt me severly. I asked them if they were satisfied, and they made no answer, and they told me to go home, and said that if I said anything about it they would be certain to come back and take my life. I told them that there was no use of me saying anything about

it. I told them there was a cut on my face. I had told them before that if they would let me up I would go anywhere, and I found if I didn't give up they would use me pretty rough, and in that scuffle that I had with them they had cut my face, and there was quite a pool of blood left.

Q. That was caused by what? A. I do not know whether it was done by a knife. There is the scar there yet. When they told me that I must not tell anything about it I told them there was no use of my telling, because there were folks standing on the hill looking at the scuffle, and I was just as bloody as I could be. I told them there was no use of my telling, because everybody would know it, so they just finished and went off, and scattered down that branch and the field. First let me say they took my pistol, and I told them that some one had my pistol, and I would be glad to have them give it up. They took the pistol and shot it off and gave it back to me. In the trouble they tried to take my watch. The watch came out of my pocket, and was hanging, and a fellow came up and looked at my face, and picked up my watch and put it in my hand, and he said, "Here is your watch." I told him that I wanted my pistol, that I would be glad to have them give it up. They took it out and shot it off and brought it back and gave it to me as I started home. They shot three or four pistols, but the direction of the shots I do not know. I reckon they thought I would run, but I did not. I walked on back and got my hat where they had taken it from me, and then went home.

Q. Do you ever know of anybody being indicted for that? A. No, sir.

Q. Did you make any effort to have them indicted? A. No, sir, I never did.

Q. Why? A. I knew it was not worth while, there had been so many who had failed, and I thought it was not worth while, and I thought it best for me to let it alone.

Q. There had been so many outrages, and nobody punished, you thought it would be worthless? A. Yes, sir, I thought it

would be worthless to do anything about it, and it was best for me to let it alone.

Q. What is your politics? A. My politics is not confined to anything; I have voted but very few times since the surrender, and I have voted for both sides. There had been a county election just before in the summer, and I did not vote at the election at all. Whether it was done for that I do not know.

*Cross-Examination.*

By Mr. MERRIMON:

Q. What did they say to you it was for? A. I do not know, and I don't suppose anybody else in Alamance knows.

Q. There was no charge against you? A. There never was a charge against me in the world. Everybody talked about it. I have always been known there. I was born and raised within nine miles of where I live now. I was a bound boy.

Q. Do you know who committed this outrage? A. I thought I recognized one by his voice, and that was all; but I could not tell any other one. While we were struggling he said something which I could not understand, and I thought I recognized his voice.

Q. Who was it? A. It was young Crabtree, who worked in the factory.

Q. Did the boys about the factory have any spite against you? A. No, sir, not that I know of.

Q. Were you watchman at the factory? A. I was at the time, and had been ever since the surrender until that time.

Q. Judging from your recollection of the voice, you think that was young Crabtree? A. I know I recognized his voice to know that he was one of them.

Q. How many cases of applications to the authorities to punish these men for crime were there of this sort? A. I do not recollect.

Q. Do you know a single one? A. Yes, sir.

Q. What one? A. Caswell Holt.

Q. He was whipped after you were? A. No, sir; that was before.

Q. He was whipped sometime in 1869? A. I was whipped in the fall of 1869—I think the latter part of August or the 1st of September, as well as I recollect. I cannot say for certain; I did not keep the date.

Q. Caswell Holt was whipped after you?

Mr. McCORKLE. No, sir; he was whipped first, and then afterwards was shot.

A. There had been so many that I judged it would be useless. When they made their threat of what they would do, I thought I would let it alone. I did not see that there was any chance of convicting men when the offence could not be proved against them.

Q. But you made no effort? A. No, sir, it would have been useless. I concluded it was useless.

Q. Is there any magistrate in that neighborhood? A. The nearest magistrate is at Graham two miles off.

Q. You made no application to him? A. Not at all.

Q. What is the politics of the magistrate? A. Squire Albright and Peter Hardin are the nearest magistrates.

Q. Which Squire Albright is that? A. Squire Albright in Graham.

Q. But there are two of them there? A. William Albright.

Q. But there are two Williams Albright—which one? A. There is William A. Albright and William R. Albright.

Q. They call him "Red eyed?" A. He always goes by that name. I did not recollect his name at first because they always called him "Red eyed."

Q. Do you know if both are republican magistrates? A. Yes, sir, they are both republicans.

Q. You made no application to either? A. No, sir.

Q. You don't know of any case where they were applied to where a persons was convicted? A. No, sir.

Q. Do you know of any case where there was an application? A. There were so many that I don't recollect any besides Holt's case——

Q. If there are so many that you might name them—you

ought to name one? A. There were so many outrages I don't know whether they applied or not. There were so many that nobody applied and nobody would be convicted.

Q. Why were they not cenvicted? A. I cannot tell what the reason was. I reckon that they could not prove who a man was when he was disguised. They could not get any proof. I don't know of anything else.

Q. Were the magistrates afraid to issue warrants? A. I cannot tell whether they were or not. They were just as I was I reckon.

*Re-Direct Examination.*

By Mr. McCorkle:

Q. You say the party was disguised and it would be difficult to get at them? A. Nobody could tell unless they had a certain mark upon them because they had on these white clothes.

Q. You say that there had been a great many outrages perpetrated and that nobody could be convicted? A. There were so many that I thought it best to let the matter alone.

MARY GAPPINS, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. Boyden:

Q. State your name? A. Mary Gappins.

Q. Where do you live? A. In Alamance.

Q. How old are you? A. Forty-six years.

Q. Go on and state if anything was done to you by disguised persons, and if so, when it was? A. My house was torn down from over my head on the 8th of last January was twelve months ago.

Q. Where did you live? A. About ten miles from Graham court house down south.

Q. How many were there in your family? A. Six.

Q. Describe to the court who they were? A. Do you mean my own family?

Q. Yes? A. My children and myself.

Q. How old are they? A. One was a married daughter twenty-three years old, she was living with me; another was twenty years old and the other two are small one nine, and the other five, and then my daughter' child is about three years old.

Q. Tell how many came there? A. Seven.

Q. What condition did they come in? A. They came in white pants and robbins with belts fastened around like. They had no gowns on but they had something over their head, which did not quite cover all of their head for I saw their natural hair. Then they had marks, little red marks on the faces of them and they had something like horses' mane which hung down for a beard—at least they lost one of them and I saw it. They didn't have it fastened on very well.

Q. Did you get it? A. Yes, sir.

Q. That was horse hair? A. Yes, sir, it was a mane or horse hair of some kind, whatever you may call it. It belonged to horses anyhow.

Q. What time did they come in the night? A. I cannot tell exactly what time it was. It was not midnight.

Q. Were you abed? A. No, sir, me and my two oldest daughters were sitting by the fire. The children were in bed.

Q. Was there anything about their heads except this cap? A. No, sir, nothing except over their face and over their head like a piece of cloth fastened, but I could see the back part of the natural hair.

Q. What sort of a night was it? A. It was cold weather, the coldest night there had been that winter—at least the neighbors said it was. I did not get cold that night, for I was too mad to be cold.

Q. Did you get mad? A. I did, for it was enough to make anybody mad.

Q. Tell us how they commenced their operations? A. They came to the door; my dog barked and Caroline spoke up and said here is some one. I said "Who is it?" she said Julia said "the Klux is coming," and she counted and said there were seven of them in the yard. They came close to the door and spoke.

Then one of the girls, I don't know which, said, "come in" or "scratch under"—I don't know which. I don't know whether it was Carolina or Julia. They come in and said we had to get out in fifteen minutes, or else the house would be torn down. The girls went to the door and asked them what they were going to tear the house down for. I was sitting by the fire. I would not go to the door and I did not say a word to them. They said they had orders to tear down the house. I still did not go to the door.

Q. Who did they say gave the order? A. They said that they had got the order from hadquarters. They did not say who gave it, only that it was given at headquarters. The girls kept asking them about it and told them not to tear the house down, but they said they would, and told them to take the things out. The girls said they would have to help them take the things out, and they turned in and took the things out and put them in the yard, and after that they tore down the house and started off. As they started off, I said I think this is a pretty trick for my neighbor's boys. They got up in a club together and whispered, I reckon, I don't know what they said, but they stepped back and said, "If you are not out of the county in a few days, or come back, you are dead." I made no answer, but I have not left the county yet.

Q. They tore your house down? A. Yes, sir, they tore it to the bottom log.

Q. And took your things out? A. Yes, sir, they did not damage them much.

Q. What did they say they tore down the house for? A. They did not say.

Q. Did you know any of them? A. I know the last one of them. I knew them when they were not more than knee high to a man.

Q. Who were they? A. Peter Foust's sons Daniel and John, John Barbee's two sons, William Stafford's son, Gaston, Elijah Foushee and a man from Chatham named Joseph Petty. [Persons in the court here exhibited some merriment.] You

may laugh if you want to, but I have come here to speak the truth and I will if I am killed the next minute for it.

Q. How far was this from Chatham? A. I live, as near as I can tell, about half way to Chatham.

Q. From where? A. From Graham court house—ten miles from the court house down south. I don't suppose it is more than ten miles from Graham court house.

Q. State whether these persons who tore down your house were white or colored? A. They were white folks; the furthest one of them lives only a mile and a half from where I live.

Q. Can you tell how old they were? A. Daniel Foust may be twenty-five ot thirty years old, but the balancere not we so old.

Q. How old was this man from Chatham, Petty? A. I don't know his age but he is not old. I don't think he is over thirty years old.

*Cross-Examination.*

By Mr. MERRIMON:

Q. Did these men have horns on? A. No, it was something shaped like that stuffed full of straw or something.

Q. What is your occupation—the counsel did not ask you that? A. No, they did not.

Q. What is your occupation? A. My occupation is to work for a living and stay at home and mind my own business.

Q. What sort of work do you do? A. Any that I can.

Q. Have you ever been married? A. No, sir, I have not.

Q. You never have been? A. No, sir.

Q. How many children have you? A. I have had seven.

Q. How many colored children? A. I never had but one, I thank you. [Laughter.]

Q. Are persons in the habit of visiting your house—men? A. No, sir.

Q. White men come there occasionally? A. They come sometimes of course.

Q. Do colored men come there? A. No, sir, they do not come for any such business. [Laughter.]

Q. Any such business? A. No, sir, I don't have any dealings with them.

Q. How did you come to have that colored child? A. It was a darkey who took me in some way and got me where I could not help myself. [Laughter.] I have as much objection to white folks and darkies mixing up as anybody. [Laughter.]

Q. Are your daughters married? A. One is.

Q. Have any of them any children? A. The married one has a child.

Q. Has any of the others children? A. No, sir, they have not.

Q. I ask you if you don't keep a common brothel? A. No, sir, I do not; that cannot be made to appear against me with truth.

Q. You are not a lewd woman? A. I never was; if I am accused of it, I am accused of it falsely. What I did I did myself, and made any fuss about it to anybody. [Laughter.]

Q. Were your daughters accused falsely? A. Yes, sir, some of them were accused, and without cause in a great measure.

Q. You keep a very nice and decent house? A. My neighbors are some of them here and you can ask them.

Q. Your neighbors all say you keep a nice house? A. I don't have a pack of men lying around me. [Laughter.]

Q. You never did? A. No, sir.

Q. And you never did before they pulled your house down? A. No, sir.

Q. You kept a nice decent house? A. I never kept a pack of men lying around me.

Q. On whose land was this house? A. John Trollinger's heirs. Old uncle Trollinger was living when I went there, but he is dead and his property belongs to his heirs.

Q. How long have you been living there? A. I have been living there going on eleven years.

*Re-Direct Examination:*

By Mr. Boyden:

Q. Has anybody been prosecuted or tried for this offence?

A. Yes, sir, I got out a warrant and had some arrested and tried before two justices of the peace, Squire Holt and Squire Stout. They could not agree on it. They went both ways, and were rather afraid to do justice to me or to themselves either; but as they had threatened to take my life if I did not leave I swore out a peace warrant and had four of them bound over for twelve months with $800 security.

Q. Have they ever been indicted? A. Not that I know of.

By Mr. Manager SPARROW:

Q. Why did you not go to court and have them indicted? A. I did that much and did not want to do any more.

Q. That satisfied you? A. It did not satisfy me but I did not think as I could help myself at that time. I was nothing but a poor woman and I had to do the best I could.

JULIA GAPPINS, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BOYDEN:

Q. How old are you? A. 21 in August.

Q. Where did you live when your mother's house was torn down? A. In Alamance nine or ten miles south of Graham.

Q. Go on and tell all that took place in your own way? A. On Saturday night some people came there and tore our house down.

Q. When? A. Over twelve months ago. I do not remember exactly what month it was now. They did not tell me what they tore it down for. I asked them what they did it for and they said it was orders from headquarters from Petersburg.

Q. How many of them came, and in what condition were they? A. There were seven came. They were disguised, and had on white dresses with ribbons, and bands and false hair. Two had horns, and they had red eyes and mouth, and some had black around the mouth, and one had a sheet around him.

Q. Tell what time they came to your house, and where you were when they came? A. I was in the house when they came up.

Q. Had you been to bed? A. No, sir, I was sitting up.

Q. Tell what was said when they came? A. I cannot tell what they said. They came to the door, and put through their heads, and I told them to "Come in" or "scratch under." They didn't come, and I opened the door and they told us to get out of the house, as they were going to tear it down in fifteen minutes. I asked them what they were going to tear down the house for, but they would not make any answer. They told us to take the things out. I told them if they wanted to have the things out quicker than I could get them out they had better take hold and help. The four came in, and I asked them if they had got anything against me, and they said they would not hurt a hair of my head.

Q. Did they give any reason? A. No, sir, they only said they had orders to tear it down.

Q. Did they tear it down? A. Yes, sir, they tore it down to the ground.

Q. What kind of weather was it? A. The coldest night there was in the year—that is what the neighbours said.

Q. What did you do after they tore the house down? A. We stayed out of doors.

Q. All night? A. Yes, sir, all night long.

Q. What sort of a night was it? A. It was a clear night—it was moonshine.

Q. Did you know any of them? A. Yes, sir, I knew them all.

Q. Give their names? Daniel Foust, George Barbee, John Barbee, Elijah Fouchee, Joseph Petty, Gaston Stafford and little John Foust.

Q. Where did you go the next morning—what did you do? A. We just stayed out of doors.

Q. How far did you go the next morning? A. We didn't go any where. We fixed up a tent out of doors.

Q. How long did you live in the tent? A. We lived there thirteen months and twenty days I believe.

Q. What did they do after the house was torn down? A.

After they tore the house down they talked a few words and mother said, "It is a nice trick for my neighbour's boys," and they said if we didn't go out of the county in ten days they would come back and we would be dead.

*Cross-Examination waived.*

MILLIE ALSTON, (colored,) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCORKLE:

Q. How old are you? A. I don't know my age, but as near as I can come to it I am near sixty.

Q. Where do you live? A. In Alamance, on the other side of Haw river, on Greenmore's plantation.

Q. State if any disguised persons ever came to your house? A. Yes, sir, about a year ago, just before harvest. The wheat was turning. They came and bursted open my door. I was lying asleep. Heard them, and I jumped up and was scared. When I jumped up there was one in white, or something going towards the door, and the other was coming around as I just sat up in bed, and after a while they came in the house; they came in the door; there was five of them, and one of them came to the bed with a pistol, and he pointed it at my breast. I said, "Please, sir, don't kill me"—just so. Then he took hold of my hand and pulled me off the bed, and he said, "Let us take her to the graveyard." One stooped down to catch hold of my leg. They afterwards said, "Let her alone," and began to whip me. They never told me what they were whipping me for until after I was done whipped. There was four whipped me, and they gave me twenty-five licks apiece, and one of them stood by and counted the licks. I was not thinking about the licks; I was trying to see what form they was in—to see what they was, as they was all dressed in white, and had great long robes down to the feet. I could only see red around the eyes and black around the mouth.

Q. State what clothes you had on when they whipped you?

A. I had on a new cotton frock. I had just laid across the bed; it was on Friday morning, and I just laid across the bed, sort of tired.

Q. What time in the night was that? A. I don't know exactly what time in the night, but when they left it was near about an hour and a half from day.

Q. How long did they remain there? A. I don't know that they remained any longer than they got done whipping me.

Q. How many lashes did they give you? A. About twenty-five apiece.

Q. All four whipped you? A. Yes, sir.

Q. State whether you were injured by the whipping? A. They welted me, and made me powerful sore. Just after they whipped me I washed myself in salt and water.

Q. How long did you suffer from the effects of that whipping? A. I don't know. I reckon near about two weeks. They hurt me very bad.

Q. You suffered for two week? A. Yes, sir.

Q. Did you know any of the parties? A. No, sir, I didn't know 'ere a one of them at all.

Q. Did you ever have anybody indicted about it. A. No, sir.

Q. Why? A. I didn't know the laws, and I didn't know nothing about it. I was scared, and I could not do anything with it.

Q. Was there any other person in the house but you? A. Yes, sir, I had a daughter—my eldest daughter was there. She jumped up, and she was going out of doors, and he told her not to go out or they would shoot her.

Q. How old was your daughter? A. I think she is near about thirty, as near as I can guess.

Q. Did they do anything to her? A. No, sir, they didn't touch her at all.

*Cross-Examination.*

By Mr. MERRIMON:

Q. What did they whip you for? A. I was living at Jim

Newland's, in the yard, and I had a granddaughter that her mother left, and I raised her. She and some white children on the factory hill got into a tangle, and so Mrs. Newland—she did not like that—and she said she was going to whip her, and so she went out to the road and got a pine bush and she struck her with it. I was right by, and I gathered her and took the stick away from her. At that time she halloaed and her girls came out and Henry Quackenbush and told me to let go of the stick. I told him I would not, and he commenced beating me over the head, and he broke a green stick on my head twice.

Q. You had a fight there? A. Yes, sir, we had a hurrah there. After that I moved away from there.

Q. What did they say they whipped you for? A. They told me, after they had done whipped me. One said "Now strike a white woman will you?" I was just scared, and didn't know hardly what to say.

Q. They did not hurt you much? A. Yes, sir, they hurt me powerful.

Q. How many licks—two hundred, did you say? A. Twenty-five licks apiece. Four of them whipped me, one with a cedar switch, the other was a sweet gum, and another was a red elm.

Q. How did you happen to count? A. I didn't have time to look.

Q. How do you know they gave you a hundred, then? A. One of them stood there and counted the licks.

Q. Did you hear him count? A. Yes, sir; the first one hit me twenty-five, and he stopped him, and then another, and he counted them in the same way.

*Re-Direct Examination.*

By Mr. McCorkle:

Q. State whether you had any fight with a white woman? A. No, sir, I never had any fight only that time that I was taking a stick away from her for beating my little granddaughter.

Q. You say this white lady was beating your grand daughter and you took this stick away from her? A. Yes, sir, and I went and took the stick away.

Q. Did you say anything to the white woman? A. If I did I don't know; she had hold of the stick and I had hold of it; so she called and holloed, and Mrs. Quackenbush and her daughters came out. We both of us had hold of the stick and one of the daughters went down to the store after her pa, and he came up there. We were both standing holding the stick. I was talking, and I said, "Miss Eliza Ann Newland, I think "it is very hard for you to beat my little child on account of "factory hill children; if it had been your children it would "not have been so bad, but the factory hill children was nothing "to you, and I think it is very hard."

Q. How old is your grand child? A. She is near about going on nine years old.

Q. Was anybody punished in court for your being struck by this lady? A. No, sir, not that I know of; we did not have anything to do with it after then.

Q. You say there was no indictment of Quackenbush's hitting you? A. No, sir, not as I know of.

Q. Was there any indictment about these Kuklux beating you? A. No, sir, I don't know anything about it at all.

Q. Why didn't you have an indictment against them? A. I did not know how.

Q. Did you know any of the parties? A. No, sir, none at all.

WILLIAM H. BRADSHAW, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCorkle:

Q. What is your age? A. Fifty-four years.

Q. Where do you reside? A. In Alamance.

Q. Have you occupied any office in that county? A. I am a magistrate.

Q. How long have you been a magistrate? A. Nearly two years, it will be soon.

Q. Do you know Matilda Puryear? A. Yes, sir.

Q. Did you hear her testimony yesterday? A. Yes, sir.

Q. Did she come to you after her husband was missing, and if so what did she apply for? A. She came to my house the next morning after he was taken out of her house, she said to get my advice. I asked her what was the matter. She said that some men had come to her house the night before and taken off her husband. I asked her what he had done that caused them to take him off? She said she could not tell unless it was the manner with which he had treated her. I asked her what he had done and she said that on Monday morning previous he had whipped her and then loaded his gun and told her that he was loading it expressly to kill her.

Q. You heard her testify yesterday? A. Yes, sir.

Q. Did she make the statement to you that she made yesterday? A. Yes, sir.

Q. She never applied for any warrant until after he had disappeared? A. No, sir.

Q. Did you ever belong to the White Brotherhood? A. Yes, sir.

Q. When did you join it? A. In the spring of 1869, I believe it was.

Q. Were you a magistrate at that time? A. No, sir.

Q. You were qualified as a magistrate in what year? A. August, 1869.

Q. I ask if you don't know that certain persons who belonged to the Brotherhood applied to you to prevent their members from inflicting injuries upon William A. Albright and if so, give their names? A. John R. Stockard came to my house one day and told me he had understood there were——

Q. Did John R. Stockard belong to the Brotherhood? A. Yes, sir. He said he had understood that they were going to make a raid on William A. Albright—or the mayor of Graham,

was the way he expressed himself—and he wished me to go to James Bradshaw's and try to prevent it.

Q. Was James Bradshaw a member? A. Yes, sir.

Q. Did you do it? A. Yes, sir, I went to his house, but I did not see him. I saw his brother.

Q. Was his brother a member? A. Yes, sir.

Q. What was his name? A. John Bradshaw.

Q. Did you succeed in preventing it? A. I never heard anything more about it after that. I never saw James Bradshaw to speak to him on the subject.

Q. Will you state whether there was a large number of desperate men belonging to that brotherhood in the county, and if so, how many?

Mr. MERRIMON. We object to that.

Mr. GRAHAM. We submit that the question is not competent. They have a right to state who were members and prove their characters after that.

The CHIEF JUSTICE. The question is rather general.

Mr. BOYDEN. We are only following out the line of the examination pursued by the other side in reference to Kirk's militia.

Q. I will ask you if you know how many belonged to the order? A. I do not?

Q. What camp did you belong to? A. I don't know what the number of the camp was. I never was present except at two meetings and I found out but very little about it anyway.

Q. Where were these meetings held? A. One was held at a house where William Tear lived.

Q. Was anybody occupying the house at the time? A. No, sir.

Q. What time in the night did you meet? A. I think it was about eight o'clock.

Q. How many were there? A. I suppose twelve or fifteen, it may be not so many.

Q. Who were at that meeting. A. Jasper Woods was the presiding officer.

Q. He was the chief of the camp? A. Yes, sir,

Q. Where is he now? A. I don't know.

Q. Who were the others present? A. James Foust was present, James Bradshaw and John Tear.

Q. Where is James Bradshaw now? A. I don't know.

Q. Is he in this county? A. I cannot tell whether he is or not. He has left the county.

Q. Has he left where he used to live? A. Yes sir.

Q. How long has he been gone? A. He has been gone——

Q. [By the Chief Justice.] Was it before or after Kirk came that he left? A. He left about the time Kirk came.

Q. Who else were there? A. Some of the Thompson boys were there.

Q. Do you recollect their christian names? A. Joseph Thompson and I think Richard and some others. I cannot just now think of their names.

Q. I wish you would try and remember who were there? A. I think John Albright was there, John R. Stockard and John Thompson I think.

Q. Were any other persons present at that meeting? A. Not as I remember of.

Q. How many belonged to that camp? A. I don't know indeed.

Q. State as near as you can? A. I cannot tell.

Q. Can't you form any idea? A. I have no means of knowing.

Q. Were they all white men? A. All white men.

Q. State whether they were disguised or not, any of them? A. One of them was.

Q. What kind of disguise? A. It was a black gown I think.

Q. You say you were in another meeting? A. Yes, sir.

Q. Where was it held? It was held at a house on Mr. Richard Geer's plantation.

Q. Was anybody living in the house at the time? A. No, sir.

Q. What time of the night did you get there? A. I suppose

it was between eight and nine o'clock.

Q. Who was there? A. Pretty much the same company.

Q. Were there any additions to it? A. Yes, sir, I think two or three joined that night.

Q. When was this last meeting? A. I believe that was the first and the other was the last.

Q. When was that? A. I reckon it was probably April or May, somewhere along there. It was in the spring of 1869, I think.

Q. What time in April 1869? A. I don't recollect whether it was April or May. I know that the last meeting I attended was at Tear's old house. There was a sale at Doctor Walker's that day and we met that night.

Q. What month was that? A. It was August, I reckon.

Q. That was the last meeting you attended? A. Yes, sir.

Q. That was the meeting you referred to in giving the names of parties? A. Yes, sir.

Q. What additional persons were at this first meeting? A. I think probably William H. Crutchfield.

Q. Was this the only other meeting you ever attended? A. Yes, sir.

Q. What did they do at the last meeting? A. There was nothing done at the last meeting.

Q. No orders or decrees made? A. No, sir. At that meeting I think there was some talk of making a raid towards Hillsboro'—"a demonstration" was the language used.

Q. State what was proposed about making that demonstration? A. Nothing more than that it was proposed by them, and I think Jasper Woods was opposed to it, and said that if the members made a demonstration and did anything that was wrong the society would not be held responsible for any such act.

Q. What did they propose to do? A. I did not hear anything at all.

Q. They proposed to make a demonstration? A. Yes, sir.

Q. How? A. Just visit that country. They did not pro-

pose to do anything, and did not tell what they were going to do or what their object was.

Q. How were they to go, disguised or otherwise? A. That was all there was said, what I have told you.

Q. But you must know what was meant by "a demonstration" and going on a raid? A. I cannot tell you what they meant.

Q. You say that Jasper Woods, the chief of the camp, said that if they went without orders the camp would not be responsible for it? A. Yes, sir.

Q. You say the camp did not grant orders to make this raid? A. No, sir.

Q. Were colored people allowed to join this brotherhood? A. I think not.

Q. It was prohibited? A. Yes, sir.

Q. Can you give me the names of any of the members of this organization outside of the camp to which you belonged? A. Yes, I think so.

Q. I will first ask you who was chief of the county? A. Jake Long, I think, at the commencement.

Q. How many camps were there in the county? A. I do not know.

Q. Did you not know from the members—had you not heard them say how many? A. I don't think I ever did.

Q. How many did you know of? A. I only know of two, that one and the one at Graham.

Q, After a while was any body appointed in Jacob Long's place? A. I don't know.

Q. You say you know a good many persons who belonged to it outside of your own camp? A. I know of some.

Q. Do you recollect the persons whom Burgen arrested in Alamance? A. Yes, sir, I know some of them.

Q. I will ask you if they did not all belong to the brotherhood? A. I cannot tell you whether all did, but I know some did.

Q. Name those which did belong whom he arrested? A. I

knew John R. Stockard, and myself. I don't know of any others that I can say belonged to the brotherhood who were arrested.

Q. Did they belong to any other organization? A. Yes, sir.

Q. What was that? A. The Union Guard I believe.

Q. The Constitutional Union Guard? A. Yes, sir.

Q. Who were they? A. I don't know who they were. William Johnson belonged to the camp I did, I had forgotten him. He was in prison.

Q. Can you name any persons who belonged to it who were arrested? A. No, sir, I have no means of telling you now.

Q. You know whom he did arrest? A. I knew some of them.

Q. Do you know Albert Murray? A. Yes sir.

Q. He is sheriff of the county? A. Yes, sir, I know him.

Q. Do you know whether he was a member of either organization? A. I do not.

Q. I ask you if these different organizations, the Constitutional Union Guard, the White Brotherhood and the Invisible Empire were not known to the world outside as the Kuklux Klan? A. I cannot answer that question. I do not know.

Q. Don't you know that your society was known as the Kuklux Klan? A. They were called by that name by a great many people.

Q. Did not you know that Adolphus G. Moore belonged to it? A. I did not.

Q. Did he live in your district? A. No, sir.

Q. Do you know Lucien H. Murray belonged to it? A. I do not know.

Q. George S. Rogers? A. I do not know.

Q. Alexander Wilson? A. He belonged to it.

Q. Walter Thornton? A. I do not know.

Q. William Redding? A. I do not know.

Q. Thomas M. Holt? A. I do not know.

Q. George Andrews? A. I do not know.

Q. Frederick Blanchard? A. I do not know.

Q. John Robinson? A. I do not know.

Q. William Tate? A. I do not know?

Q. Alexander Patton? A. I do not know.

Q. William Patton? A. Yes, sir.

Q. Jessie Grant—that is probably intended for Gant? A. I do not know.

Q. Lemuel Whitsett? A. I do not know whether he did or not.

Q. Josiah Thompson? A. Yes, sir.

Q. Sydney Steele? A. Yes, sir, he belonged to it.

Q. George Johnson? A. Yes, sir.

Q. Joseph Wright? A. Yes. sir.

Q. Benjamin McAdams? A. I do not know.

Q. Ruffin Andrews? A. I do not know.

Q. Thomas Ray? A. I do not know.

Q. Joseph Pritchard? A. I do not know.

Q. Loften Tear? A. He does not.

Q. Joseph Thompson? A. I don't know but one Joseph Thompson that belonged to the order.

Q. I named Josiah Thompson before? A. Yes, sir, I know Joseph Thompson.

Q. He belonged to the order also? A. Yes, sir.

Q. [By Mr. Manager Sparrow.] Did both belong? A. Yes, sir.

Q. Henry Cook? A. Yes, sir.

Q. William Anderson? A. I do not know.

Q. M. N. Shaw? A. I do not know.

Q. John Long? A. I do not know.

Q. James H. Andrews? A. I do not know.

Q. Joseph Gibson? A. Yes, sir.

Q. Henry Pritchard? A. I do not know.

Q. Joseph Nelson? A. I do not know.

Q. James R. Murphy? A. I do not know.

Q. William Kirkpatrick? A. I do not know.

Q. Thomas Gray? A. I do not know.

Q. Jefferson Younger? A. I do not know whether he did or not.

Q. Frank Mebane? A. I don't know—that was Doctor Frank Mebane?

Q. Frank? A. I don't suppose he did, They had him in prison while I was there. He told me he was not a member

Q. I asked your knowledge? A. I do not know.

Q. Clement Curtis? A. He belonged.

Q. John W. McAdams? A. I do not know.

Q. William Moore? A. I do not know.

Q. William Clendenen? A. He did not belong.

Q. D. W. Weedon? A. I do not know.

Q. You don't know whether Weedon belonged or not? A. I do not know.

Q. Daniel Moses? A. I do not know.

Q. P. Thompson? A. I do not know.

Q. David Moore? A. I do not know.

Q. Monroe Fowler? A. I do not know.

Q. Henry C. Hurdle? A. I do not know.

Q. William Whitsett? A. I do not know.

Q. Albert Murray? A. I do not know.

Q. J. J. Moore? A. I do not know.

Q. Joseph Kirkpatrick? A. I do not know.

Q. W. V. Montgomery? A. I do not know.

Q. John Trollinger? A. I do not know.

Q. Jerry Whitsett? A. I do not know.

Q. Calvin Gibson? A. I do not know of my own knowledge whether he does or not—he was in prison.

Q. All of these persons were in prison that I am reading you? Did he ever tell you? A. No, sir.

Q. Did any other member of the order tell you? A. I think they did.

Mr. GRAHAM. Mr. Chief Justice, we object to the question. When the member of the order states that another belongs to it, it is not proof of the first.

Q. [By the Chief Justice.] When did they tell you? A. In prison.

The CHIEF JUSTICE. The presiding officer thinks the evidence is not competent.

Q. John G. Albright? A. Yes, sir.

Q. Robert Hannah? A. Yes, sir.

Q. William Johnson? A. Yes, sir.

Q. Henderson Scott? A. Yes, sir.

Q. William Stockard? A. I do not know.

Q. James Dixon? A. I do not know.

Q. K. A. Albright—I suppose that means Kenneth Albright? A. I do not know.

Q. Thomas Lutterloh? A. I do not know.

Q. John Grant? A. No, sir.

Q. James Foust? A. Yes, sir.

Q. A. Thompson? A. I do not know.

Q. Robert Stockard? A. I do not know.

Q. J. A. Moore? A. I do not know.

Q. James T. Hunter? A. I do not know.

Q. James S. Scott? A. I do not know.

Q. I mean now whether they belonged to the White Brotherhood or the Constitutional Union Guard or the others? A. I understand you.

Q. John Smith? A. I do not know.

Q. George Andrews? A. I do not know.

Q. Milton Pickard? A. I do not know.

Q. Henry Robertson? A. I do not know.

Q. John R. Stockard? A. Yes, sir.

Q. John Curtis? A. No, I do not.

Q. Joseph Stockard? A. Yes, sir. Some of these men have told me they belonged—those whom I have named—that is the only knowledge I have of it.

Q. I ask you whether any of the members of that organization have ever been indicted by the grand jury of Alamance county for any of the outrages that were perpetrated by them?

Mr. MERRIMON. You had better ask whether he knows that there were outrages perpetrated.

Mr. McCOKKLE. We have a right to ask the question generally.

The CHIEF JUSTICE. The presiding officer thinks the question is too general.

Q. Have there ever been any indictments for outrages committed by the Kuklux? A. I do not know. There have been some indictments.

Q. You mean the colored men? A. Yes, sir.

Q. I ask you if colored men were allowed to join the White Brotherhood; A. I think not.

Q. You speak of the White Brotherhood. Do you mean the colored men were excluded from joining the Constitutional Union Guard also? A. I do not know.

Q. You didn't belong to that? A. No, sir.

Q. Nor to the Invisible Empire? A. No, sir.

Q. I will ask you if any indictments have been found against persons belonging to the White Brotherhood for violations of the law? A. I do not know.

Q. I will ask you if you belonged to the White Brotherhood while you were justice of the peace? A. No, sir; I had nothing to do with that except those two meetings. There were supposed to be two socities in our county. One was termed the League and the other the Kuklux. When there was mischief there some supposed it was done by one party, and some by the other.

Q. Had you formally dissolved your connection with the White Brotherhood when you qualified to act as a magistrate? A. Yes, sir.

Q. You had formally withdrawn? A. I didn't withdraw, only I didn't attend any meetings. I don't know whether they had any meetings after the last one I attended. I was not in any of their secrets at all, and knew nothing of what was going on.

Q. You don't tell the court that you sent in your resignation withdrawing from it? A. No, sir.

Q. You merely mean to say that you did not attend their meetings after you qualified as a magistrate? A. Yes, sir.

Q. Describe the garb they used to dress in in that order? A. I never saw but that one in my lifetime. I never saw a man disguised in my life.

Q. You never wore one yourself? A. I never had one on.

*Cross-Examination.*

By Mr. MERRIMON:

Q. You said that you knew of another organization there called the League? A. Yes, sir.

Q. Which existed first—the League or the Kuklux? A. The League, I think.

Q. How early were the Leagues introduced? A. Well, some time before; I cannot tell exactly how long.

Mr. McCORKLE. Will the counsel allow me to examine the witness upon another point, which I forgot?

Mr. MERRIMON. Yes, sir.

*Direct-Examination* [resumed.]

By Mr. McCORKLE:

Q. How came your first meetings to be always in the night, and not in the daytime? A. I don't know, only my opinion about it is that it was to keep from being seen.

Q. From being detected? A. It was a secret business, and they didn't want it known.

*Cross-Examination* [resumed.]

By Mr. MERRIMON:

Q. You say there were two secret political societies, and they met at night? A. Yes, sir, so far as my knowledge went.

Q. You belonged to the White Brotherhood? A. Yes, sir.

Q. Did you say you belonged to the Constitutional Union Guard? A. I don't think I did.

Q. I ask you this question, did you take any oath to commit any crime when you joined the organization? A. None at all.

Mr. McCORKLE. We object to the question. The coun

sel has no right to ask it in such form. He should ask what oath he took.

Mr. MERRIMON. We have a right to ask leading questions on the cross-examination.

Mr. McCORKLE. But you have no right to call for a legal inference.

Q. Did you take any oath by which you agreed to commit a crime, or have any body else commit a crime? A. No, sir.

Q. Will you state to the court whether it was any part of the object of this organization to which you belonged to over throw the state government or federal government? A. Not at all.

Q. Was it any part of the obligation that you took to deprive colored men of their rights under the constitution and laws of the country? A. Not a bit of it.

Q. You say you were elected a magistrate in 1868? A. 1869.

Q. Would your obligation as a member of the White Brotherhood or Constitutional Guard prevent you from discharging all the duties devolving upon you, according to law as a magistrate? A. Not at all.

Q. Would you feel bound, if an application was made to you by a white or black man for a state's warrant, not to grant it against a member of that order? A. I should certainly grant it.

Q. You would grant it to one the same as to another? A. Yes, sir.

Q. You would grant it to a black man as well as to a white man? A. Yes, sir.

Q. Did you ever refuse to grant such a warrant? A. No, sir.

Q. If an application were made to you for a warrant of arrest against a member of the White Brotherhood or Constitutional Union Guard for whipping a colored man, would you refuse to grant the warrant because he was a member of either of those organizations? A. No, sir.

Q. Would you grant it as readily against him as against a member of the Union League? A. I would.

Q. Suppose you were an active co-operating member of the White Brotherhood or Constitutional Union Guard at the time the application was made to you as a magistrate, would your obligation as a member of the White Brotherhood lead you to refuse a warrant against any member? A. No obligation I took so far as my understanding goes prohibited me from doing my duty to all men.

Q. Did you say you knew anything about an organization called the Invisible Empire? A. No, sir, I don't know anything about it.

Q. Was there such an organization existing, or don't you know? A. I do not.

Q. You were going on to tell what that colored woman told you, Matilda Puryear, and you didn't finished. I ask you to tell the remainder of the conversation you had on the occasion which you were talking about? A. I wanted to know what the difference was between her and her husband, and what he had done to cause these men to come and take her husband off. She said she could not tell unless it was the manner in which he treated her some time previous. I asked her what he had done. She said that on Monday morning previous to that he had whipped her and loaded his gun and told her that he was loading the gun expressly to kill her. I told her to go home and make a compromise, and live together as man and wife should do, and she said she was afraid to go back.

Mr. McCORKLE. This that you are talking about was after he had been carried away.

Mr. MERRIMON. You went into that conversation yourself in that examination.

Q. Go on? A. She said she was afraid to go back that she was afraid she would see him, and she wanted me to go and do something for her. I told her that I would not go by myself, but if she would go down and see Colonel Paris, the deputy sheriff, there, and get Patterson Thompson I would go. They

came over to my house, and I told them we had better go and see what the matter was. We went and got Dr. Clendennen and Captain William Johnson, and went within a quarter of a mile of her house, and I told her to go on home, and we would take a route around the house. She said she was afraid to go, that if he was there he would beat her. I told her to go on and if he interfered to halloa, and we would come in and settle it. We went around the house. She lived in the woods. She made a search for her husband, and we went up to the house, and heard her tell about the same tale she told here.

Q. What was the character of this man Puryear, if you knew it? A. I do not know it.

Q. How far did he live from you? A. Not more than two miles and a half I suppose. I cannot speak of his general character, but I think at times he was a deranged man.

Q. Were you at the inquest held over the body of Puryear? A. No, sir, I was not.

Q. Can you say what was the state of feeling between the two races, white and black, in your neighborhood? A. Yes, sir, I think so.

Q. What was it? A. I think it was good in my township.

Q. Do you know of any opposition to the laws or the execution of any processes of the courts? A. None at all.

Q. Could a man who was injured there get a state's warrant on an application to a magistrate? A. Yes, sir, I know it.

Q. Could he have got it from you at any time? A. Yes, sir.

*Re-Direct Examination.*

By Mr. McCorkle:

Q. I ask you if the number of outrages you had heard were committed in that county indicated a good state of feeling between the two races?

Mr. MERRIMON. We object.

Mr. McCORKLE. I want to ask how the witness is capable of making a response to the question put to him by the counsel for the managers as to the state of feeling existing in that county between the blacks and whites except from reputation. We

cannot gather it any other way. That, then, being the case, we propose, for the purpose of testing the soundness of what he has stated, to ask him whether he has not heard of numerous outrages committed in that county and if, in his opinion, those outrages committed by whites on blacks indicated a good state of feeling.

Mr. GRAHAM. That is, Mr. Chief Justice, he proposes to argue with the witness on the question. You can prove general character, but on the cross-examination you cannot prove whether a man has been charged with stealing a pen knife. We have had that question before the court and it has been decided.

The CHIEF JUSTICE. The presiding officer thinks the question cannot be put.

Q. I ask you then if you did not hear, as a matter of general reputation, that a great many outrages had been perpetrated in that county?

Mr. MERRIMON. That is not competent.

The CHIEF JUSTICE. The presiding officer thinks it is competent in reply to the question to what was the state of feeling between the whites and blacks.

Mr. MERRIMON. I suppose we will be allowed to examine on the other side.

The CHIEF JUSTICE Certainly.

Q. Answer the question? A. Yes, sir, there have been a great many.

Q. I ask you if there have been any steps taken by you or any other magistrate to bring the perpetrators of these outrages to justice? A. I do not know of any. I held counsel with these men who went with me to Puryear's house that morning as to what steps had better be taken. They advised me to inform the captain then stationed at Graham. There was a company arrived just a week before.

Q. United States troops? A. Yes, sir. When I got home, I sent him a letter stating all the facts, but certainly if he had not been there I would have had her arrested that day.

Q. That was in 1870? A. Yes, sir,

Q. The spring of that year? A. Yes, sir.

Q. I ask you what steps had been taken by you or any other magistrate to arrest the perpetrators of crime in the county? A. I cannot tell you, sir, this was the only one that was committed in my township.

Q. Did I understand you that Puryear's wife was taken up? A. No, sir, she was not.

Q. What was you going to take her up for? A, I put this question to her, said I, "Had he been threatened by anybody, or had you threatened him with anything?" She said, "Yes, when he was beating me," and she said she told him that she would have the Kuklux on him.

Q. The Kuklux? A. Or some other name I cannot think of just now.

Q. [By Mr. Graham.] The League? A. No, sir, not the League.

Q. [By Mr. Manager Sparrow.] Was it the "Jayhawkers?" A. Yes, sir, that was it. I would have arrested her on that and had her examined.

Q. You were going to arrest her on that? A. Yes, sir.

Q Although you say she came to you in reference to her husband, and said he had been carried off? A. Yes, sir.

Q. I ask if she did not come to you and ask for a process to arrest the parties who had carried her husband off? A. No, sir, she did not.

Q. Did you take any steps to find out who these men were? A. I did not. I only notified this captain in Graham.

Q, You went down and surveyed her premises. A. Yes, sir.

Q. And took no steps whatever to find out who had perpetrated the outrage? A. I did not know what steps to take.

Q. Did you see an thing that had been done at the house by these persons? A. No, sir.

Q. She told you about a chain having been put upon the door while they were there? A. She told me they

closed the door when they took him out and barred it up, and told her she must not come out of the house before sunup the next morning, that if she did she would go up to spout.

Q. After she told you that the door was barred up, what induced you to suppose she had anything to do with his disappearance? A. I didn't know whether she was telling the truth. It was a general impression——

Mr. McCORKLE. We don't want general impressions.

The CHIEF JUSTICE. You are taking the privilege of cross-examining your own witnnes.

Mr. McCORKLE. I think, Mr. Chief Justice, that this is one of the cases that the court will allow us to do so.

The CHIEF JUSTICE. I think that where the witness has admitted that he belonged to the White Brotherhood. he having been called by yourself, your question goes outside of the rule.

Q. You said the oath you took was not illegal. Can you tell what it was? A. No, sir.

Q. Did you see Peter Hughes examined a day or two since? A. I heard a part of his testimony.

Q. Did you hear an oath read which he admitted was the ooth of the White Brotherhood? A. No, sir.

Q. Could you tell that oath if you were to see it? A. I don't know.

Q. Will you be good enough to read this oath? [Hands the manuscript of the oath produced by the witness, Peter Hughes, to the witness, who proceeds to read it.] Have you read it? A. Yes, sir.

Q. Will you be good enough to state whether that is the oath you took? A. It may be, I never heard it but once.

Q. Have you any opinion about it? A. It is very near it, I think.

Q. Then you think that is the oath? A. I think most of it is. I cannot say whether it is all or no.

Q. What part of it do you think is not? A. I don't know; it may all be. I never heard the oath but once.

Q. If there was no inconsistency in your belonging to the White Brotherhood and acting as justice of the peace why did you quit the order when you become a magistrate? A. I should have quit it whether I was a magistrate or not.

Q. You say you would quit it anyway? A. Yes, sir.

Q. Why did you quit it? A. For this very reason, there were a good many good many outrages committed and a portion of the people charged this organization with it and another portion charged the League with it. I thought it was done by one or the other and I did not want to have anything to do with any of them.

Q. You knew there was an act of assembly making it an indictable offence to go masked and disguised? A. Yes, sir.

Q. After that you admit you saw persons disguised? A. No, sir, I never saw but one man disguised and that was the first night I joined.

Q. When was that night? A. I think it was in the spring of 1869.

Q. What time in April do you think it was.

Mr. GRAHAM. He does not say it was in April at all? A. I dont know whether it was in April or not, it might have earlier than that.

Q. Could it have been any later? A. It might have been, I cannot tell. I have no means of knowing.

Q. I ask if there was any part of that oath you took which was not administered to you. A. I do not know.

Q. Don't you believe that this is verbatim the oath which you took? A. It may be.

Q. What is your opinion about it—what is your recollection?

The CHIEF JUSTICE. The witness will state his belief about it.

A. It may be. I think it was pretty much. It may be entirely—I cannot tell.

Q. [By Mr. Manager Sparrow.] You have no belief about it. A. No, sir.

*Cross-Examination.*

By Mr. MERRIMON:

. You stated a moment ago that you knew by reputation of eat many outrages being committed in Alamance county?

Yes, sir.

Q. I ask whether you don't know by like reputation that ese outrages were perpetrated upon persons charged with rime? A. Generally, I think.

Q. Was this provision in the oath which you took: "That "you will never bear state's evidence against any member of "this brotherhood?" A. No, sir, that was not in it. I never heard of that.

Q. You never heard of that before? A. No, sir, I never did, there was nothing of that kind in the obligation I took.

Q. I will ask you this question in that counection, whether it was any part of the arrangement in either of these organizations that the persons belonging to them were to defend each other by committing perjury in courts and getting upon juries and finding false verdicts or by proving *alibies*? A. Not a bit of it.

Q. Did you hear of it? A. No. sir.

Q. Did you hear anything of that sort suggested? A. No, sir.

*Re-Direct Examination.*

By Mr. McCORKLE:

Q. You stated to me in your re-direct examination that this might by a true copy of the oath you had taken? A. I did not notice the clause which the counsel has just read at all.

Q. You are certain that clause was not in? A. Yes, sir.

The hour of two o'clock and thirty minutes having arrived the court adjourned to meet to-morrow at eleven o'clock, a. m

## TWENTY-SEVENTH DAY.

SENATE CHAMBER, March 2, 1871.

The COURT met at eleven o'clock, pursuant to adjournment, Hon. Richmond M. Pearson, Chief Justice of the Supreme Court, in the chair.

The proceedings were opened by proclamation made in due form by the doorkeeper.

The CLERK proceeded to call the roll of senators when the following gentlemen were found to be present:

Messrs. Adams, Allen, Barnett, Battle, Beasley, Bellamy, Brogden, Brown, Cowles, Crowell, Currie, Dargan. Edwards, Eppes, Flemming, Flythe, Gilmer, Graham, of Orange, Hyman, Jones, Latham, Ledbetter, Lehman, Linney, Mauney, McClammy, McCotter, Merrimon, Morehead, Murphy, Norment, Price, Robbins, of Davidson, Robbins, of Rowan, Skinner, Speed, Troy, Waddell, Warren, Whiteside and Worth—41.

Senator JONES. I move that the reading of the journal be dispensed with.

The CHIEF JUSTICE put the question on the motion of Senator Jones, and it was decided in the affirmative.

JOSEPH HARVEY, (colored) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCORKLE:

Q. Where do you live? A. Alamance county, Company Ships.

Q. How old are you? A. I could not tell my age exactly, some twenty-seven years old though I reckon.

Q. How long have you been living in Alamance? A. Well, sir, I was bred and born in Alamance county.

Q. Go on and state without my asking you any questions whether you have on any occasion met with disguised persons, and if so what they did, and all about it? A. It has been

about two years I reckon as nigh as I can come to it, this March.

Q. It was in March, 1869? A. Yes, sir. They came to my house, I was sick at the time and I had got up. My wife had made me some tea, and I had got up to drink it. They bursted into my house—took me outside and tied me and carried me off about a mile.

Q. You haven't told us how many there were? A. Well, there were twelve men. They took me about a mile and tied me around a tree and they all struck me five licks apiece first, and then they all struck me three licks around apiece.

Q. Had you clothes on? A. No, sir, my clothes were off. I didn't have anything on but just my clothes I lay down in.

Q. Did they whip you on your bare back? A. Yes, sir, they drawed me up over a limb and I didn't know anything——

Q. State how they drew you over the limb? A. They just throwed the rope over the limb.

Q. You haven't told how the rope was attached to you? A. The rope was tied around my neck and they drawed me up. I found myself—or one of them had his hand on my breast here and said, "the d—d son of a b—h was just playing 'possum; we will give him a little more," and he made me get up. I could not stand when I first got up; there were two of them stood, one on each side me, and three of them struck me five more licks apiece around, and they would have killed me I belive, but one of them begged for me. They told me if I ever told it, they had not done anything to me to what they would do, and told me to go on home and say nothing about it. I went back home and my wife had left home and went down to my sister's. They had struck my baby—five months old—right across the face here apparently—it looked like a blow. They all had clubs and it looked like a blow from the club they had. She said ——

Q. Don't tell what she said—just describe if there were any wounds on the child and on your wife? A. Well, they struck it right across the face here, apparently, as far as my knowledge

could tell about it, and the child never done any more good after that. It lived a few days after that and died—never cried like a natural child any more after that.

Q. Tell what the child's condition was before the visit that night? A. In the run of that night?

Q. Before that, whether it was healthy or sickly or how? A. The child had been sick before that but then the child had got well apparently—just as well and hearty as any child; there was not anything the matter with the child at that time.

Q. Did you notice any marks upon your wife when you went back? A. Yes, sir, my wife had a scar on the side of her head here, where it looked like they had struck her with one of the clubs they had. My wife has never been well since, and has been complaining of her head ever since.

Q. I do not understand you in this respect. You did not tell how they got you out of the house. How did they get you out? A. Well, sir, they just run in and gathered me.

Q. How did they come into the house? A. They just bursted the door down.

Q. When they came in how were they dressed? A. All had on white uniforms. It looked like they had hair pulled out by the side of their ears and all around the mouth. And they had great horns about a foot long. They were all tasseled off with red.

Q. You were carried out of the house. How did they carry you out? A. Well, sir, they just gathered me and carried me right out.

Q. How did they gather you, we don't understand what you mean by gathering? A. Well, sir, just fell over on me and gathered me and carried me right out.

Q. Did you mean they took hold of you or not? A. Oh, yes, they took hold of me, I resisted against them a little but I found it wouldn't do any good.

Q. I understood you to say they carried you about a mile? A. Yes, sir, they carried me about a mile from the house.

Q. And you had no clothing on except your night clothes? A. No, sir.

Q. I do not understand when they put the rope around your neck? A. They never put the rope around my neck not until they had taken me down there and whipped me. They tied my arms at the house.

Q. Did they tie your hands to the tree? A. Yes, sir, they tied me around the tree.

Q. How did they tie you around the tree? A. In this form around the tree, [illustrating.]

Q. That was when they whipped you? A. Yes, sir.

Q. How many licks did you say they all gave you? A. They all struck me five apiece first and then all of them struck me three licks around, and after that three of them struck me five licks around after they had taken me up.

Q. Three then afterwards struck you three licks? A. Yes, sir.

Q. After you were let loose? A. Yes, sir.

Q. Do you mean that each one did or there were just five of them? A. Yes, sir, the whole twelve of them struck me five licks apiece all round.

Q. That is the first time? A. Yes, sir, and all of them struck me three and then after that three of them struck me five licks after they let me get up—after they swung me over the limb.

Q. When was it when they put the rope round your neck? A. Well, after they whipped me one of them says, "Let us swing him up may be he will tell something." They accused me of striking a white woman and knocking down a white man and I told them that I had never done it. I told them that I had had a dispute with a white woman but as for saucing a white woman I never had done it.

Q. Never had been guilty of it? A. No, sir; they said they were going to make me tell it. They tied a rope around my neck and drawed me over the limb.

Q. How did they draw the rope—over the limb? A. Yes, sir.

Q. Did they pull you up? A. Yes, sir.

Q. State how high—whether they pulled you off the ground or not? A. Yes, sir, they pulled me off the ground.

Q. Did you swing clear? A. Yes, sir, they pulled me up clear off the ground, as long as I had my knowledge but they choked me soon.

Q. I understand you to say that when you came to, you found yourself on the ground and some of them doing what to you? A. They had their hands on my breast so, feeling of me.

Q. Did you say anything about their holding you up then? A. Yes, sir, two of them held me up—stood on each side of me and held me up. I could not stand up when I first got up.

Q. Did they do anything to you after that—after holding you up? A. No, sir, only three of them struck me some five licks around a piece, and said I was playing possum.

Q. After you left your house, when they carried you out of the house state whether you heard any noise in the house, and if so what kind of noise? A. I heard my wife holloaing mightily while they had me beside the house, she hollcad and tried to get out behind, she said.

Q. Don't tell anything what she said. You heard her holloa? A. Yes, sir, I heard her holloaing.

Q. When did you return to your house? A. I could not tell exactly the time it was when I got back but it was mighty late, they kept me out pretty late.

Q. Did you state what time they came to your house? A. Yes, sir, after 12 o'clock, that is the train was due at the Shops about one o'clock and the train had left the Shops before they came there.

Q. Did you know any of them? A. Well, I thought at the time I knew some of them, but I am mistaken in my opinion, I suppose, as a man came out and told me all about it—said that he was along.

Q. Who told you he was along? A. John Long told me he was along and he was the one that begged for me.

Mr. GRAHAM. We object to anything which Long told this witness.

Mr. SMITH. That is the statement of one of the men that committed the act.

Q. [By Mr. Graham.] When was it he told you? Long after you had a trial about it? A. Yes, sir.

Mr. GRAHAM. Then it is not evidence.

Mr. McCORKLE. I don't know why it is not evidence up to this day.

Mr. GRAHAM. I think it is very well settled. It is not proven here who this Long is; whether he had any connection with anybody tried before the court heretofore or not, and the narrative made by him after the transaction is clearly not competent.

The CHIEF JUSTICE. I do not see that it is competent —how it can be distinguished from hearsay.

Mr. SMITH. Mr. Chief Justice, this is the confession of one of the disguised men who committed the act, and it would be evidence on the trial of the men for the act, and it is competent now on the part of the respondent, who acted upon information that would have been admissible before a court of justice.

The CHIEF JUSTICE. Provided you show that the information was given to the respondent.

Mr. SMITH. We cannot do that while we are examining this witness.

Mr. GRAHAM. We submit that they cannot give this confession of Long in evidence from any point of view. This witness says he thought he knew some of them at the time he had some arrested and brought before the justice, but that he was mistaken in his opinion, and that a man by the name of Long told him he was one of the disguised party. Now a narrative given even by a co-conspirator, after the transaction took place, is clearly not competent as evidence. That is well settled in the books.

Mr. BOYDEN. It will be recollected by the court that we have already proved that John Long belonged to the Kuklux.

The CHIEF JUSTICE. That was Jacob Long.

Mr. BOYDEN. And we have proved John Long was a member also. Hughes testified to it distinctly, and he stated that Jacob was also a member. So John Long being one of the conspirators what he said at any time is evidence, I imagine.

The CHIEF JUSTICE. The presiding officer is of the opinion that it is not competent, and does not see how to distinguish it from mere hearsay. Long might have been telling the truth when he talked with the witness, or he might have been telling a falsehood—we do not know.

Mr. McCORKLE [resuming.]

Q. You say you did not know who they were then? A. No, sir.

Q. You say you thought at one time that you knew them, but you were mistaken? A. Yes, sir.

Q. Now as to your child—how long do you say it lived? A. Well, it lived a few days after, but not many days. I don't know now exactly how many days, but some three or four days.

Q. What kind of a bruise did you observe as described by you? A. On the child?

Q. Yes? A. Well, it just looked—it was struck right across the face, sort of smashed its nose—it never was right any more afterwards.

Q. How old was the child? A. Well, sir, the child was five months old.

Q. Will you state whether any of these parties that whipped you or broke into your house as you have described, were ever indicted? A. I had them indicted.

Q. Were they indicted in conrt? A. Yes, sir.

Q. What was done in court? A. They never done anything at all with them.

Q. Nothing was done with them in court? A. No, sir.

Q. You took out a warrant, did you? A. Yes, sir.

Q. Before what justice? A. Mr. Hardin, I believe, or Mr. Albright, at Graham.

Q. State whether the parties were bound over or not? A. Yes, sir, they were bound over at court.

Q. And that you say was the last of it? A. Yes, sir, that was the last of it.

*Cross-Examination.*

By Mr. MERRIMON:

Q. What did you say they whipped you for? A. They said they whipped me for striking a white man and saucing a white woman.

Q. What white woman was that? A. I do not know.

Q. What white woman did they say? A. They never said; they said they would make me tell.

Q. They did not say they whipped you for stealing also? A. No, sir, nothing said about that at all.

Q. Were you indicted in court for stealing? A. No, sir.

Q. Never was? A. Well, me and a man had a dispute about a crop.

Q. Were you indicted in court for stealing and did the jury find you guilty? A. No, sir, I never was found guilty at court for stealing.

Q. Are you sure of that? A. Yes, sir, I am.

Q. Be careful of that now; I ask you again whether you were indicted for stealing and the jury found you guilty? A. A man that I raised a crop for, he indicted me for gathering some corn.

Q. Were you indicted in court and convicted for stealing? A. Yes, I was.

Q. Did the judge set the verdict aside and give you a new trial? A. No, sir, they just dropped——

Q. Did Judge Tourgee say you should have a uew trial? A. No, sir, he did not.

Q. Was it after that trial you were whipped? A. Yes, sir, it was after that trial I was whipped.

Q. Did you say tho judge dropped the case? A. Yes, sir, if was dropped.

Q. The judge dropped the case? A. Yes, sir.

Q. And after that you were whipped? A. Yes, sir.

Q. How did you know how many licks they gave you? A. Because one of them stood off and counted the licks.

Q. Who was on that jury—do you recollect any of the names of the men who were on the jury when you were tried? A. I don't know sir.

Q. Did you know Mr. Shoffner? A. No, sir, I don't know any of them.

Q. Suppose they stood off and one counted, how could you tell how many licks they gave you? Were you suffering a good deal when they were whipping you? A. Yes, sir.

Q. And yet you had time to listen when they were counting? A. I was sufferring a good deal, not any more than I had before or much more than other colored people who had been whipped.

Q. You had been whipped before have you? A. Yes, sir.

Q. By whom? A. On the breast works they whipped me a good deal.

Q. What breast works? A. I helped to throw up all the breast work about here.

Q. What did they whip you for here? A. I run off once.

Q. What else? A. Not anything else, sir.

Q. Did they charge you with stealing anything? A. Oh, no. sir.

Q. You never were charged with stealing in your life were you? A. I have been, sir.

Q. You had been charged? A. Yes, sir.

Q. Often? A. Well not often.

Q. How many times were you ever whipped in your life? A. That is more than I can tell you. My mother whipped me when I was small.

Q. After you got to be a grown up boy? A. That is more than I can tell.

Q. Have you been whipped very often? A. No, sir, my boss was very good to me, he did not abuse me.

Q. Did he ever whip you at all? A. My boss?

Q. Yes? A. Yes, sir.

Q. For what? A. For playing.

Q. Did he ever whip you for stealing? A. No, sir, he never did.

Q. He never charged you with stealing? A. Yes, sir, he has.

Q. You say you were particular to pay attention to counting the licks that he put upon you? A. I was.

Q. They hanged you up till you were senseless? A. Yes, sir.

Q. How did you count the licks then? A. I did not say they struck me when I was hanging up.

Q. No, but you said they struck you as soon as you were taken down? A. No, I said they held me up awhile after they let me down.

Q. You were suffering then; and you could not stand up? A. Yes, sir.

Q. Then it was that they said you were playing possum, and they whipped you again? A. Yes, sir.

Q. How did you know that? A. I came to myself.

Q. The first thing when you came to, you were counting? A. No, I didn't say that.

Q. They whipped you though when you were coming to? A. I said they held me up.

Q. Wern't you coming to when they held you up? A. They held me up some time after I could not stand up.

Q. At what time did they put the licks on you? A. Well, they struck me after I came to.

Q. You counted the licks? A. Yes, sir, I did—that is one stood off and counted.

Q. You say you had the men you thought did it arrested? A. Yes, sir.

Q. And took them before Mr. Harding? A. Yes, sir.

Q. Mr. Harding discharged them? A. Yes, sir.

Q. He didn't think you had proved it? A. No, sir.

Q. Were you then before the solicitor, Mr. Bulla? A. Yes, sir.

Q. What did he do about it? A. I could not tell exactly what he done. I cannot either read or write, but I suppose he done ——

Q. Did they send you before the grand jury—did they swear you and send you to a room where there twelve or fifteen gentlemen to examine you about it? A. I think they did, sir.

Q. You told them all about it? A. Yes, sir, I told them all about it as nigh as I could.

Q. Did you tell them John Long did it for one? A. I did not, sir.

Q. Are you satified now that the man you swore against did not do it? A. Well, I am satisfied—I believe they knew something about it.

Q. How do you know that anybody who was connected with whipping you struck your child? A. I didn't say that I knew it.

Q. What did you say they did it for then? A. I said the child had a bruise on it when I went back.

Q. Whether they gave the bruise or not, you don't know? A. No, I can't say that. I know it had none when I left that night.

Q. Did anybody see the child afterwards? A. Yes, sir, there were several.

Q. Did anybody see the child just before? A. Yes, sir, they did.

Q. Did you have any doctor there to examine it? A. No, sir, I did not.

Q. Why didn't you get a doctor? A. Because I was not able and, in fact, I was pestered very much. If it had not been for that I would have got a doctor. I don't travel about very much any how.

Q. Did you live in town? A. No, sir.

Q. How far from town? A. About a mile.

Q. Was there any doctor there in town? A. Yes, sir, there was a doctor in town.

Q. More than one doctor there? A. Yes, sir, several doctors there, but then I was not acquainted with the place. I had not been over there more than about ——

Q. Tell us somebody that saw the child after it was hurt besides you and your wife? A. I cannot tell; there were several.

Q. Mention one or two? A. They carried my child down to my sister's that night. My sister had it, and when I went back my wife was sitting over the child crying.

Q. Did any white person see it? A. Not at that time they didn't.

Q. Did you call in any white person to see it before the child died? A. No, sir. There was very much indifference between white and black at Company Shops.

Q. Were they fighting one another—blacks and whites—didn't they have a fight ever day? A. No, sir, they did not.

Q. They had a fight every week, didn't they? A. I said they were very much indifferent between the whites and blacks around Company Shops at that time.

Q. Didn't somebody around the Shops employ you—didn't white people employ you? A. I was working out in the country.

Q. Did white men employ you? A. Yes, sir.

Q. You worked their land? A. Yes, sir.

Q. They paid you? A. No, sir, they didn't pay me.

Q. For whom did you work? A. For a man of the name of Hardy Wright.

Q. He has not paid you? A. He has never settled with me.

Q. Never paid you for your work? A. He paid me something along, but I say he never settled up with me.

Q. Do you want to be understood as telling these gentlemen around us here that the white people there were unkind to you, and would not employ you? A. No, I didn't say that. I say they were very much indifferent between white and black

at that time, and I didn't pester them any more than I could possibly help.

Q. What do you mean by saying they were indifferent? A. They didn't care about each other, black and white people at that time.

Q. Didn't they get employment? A. Certainly they would get employment.

Q. Did you go for a doctor, and he would not come? A. No, sir.

Q. Didn't you go to a neighbor's house and ask for some articles, and they would not give them? A. No, sir, at least if I paid them for to do it they would do it.

Q. If you worked you would not work for nothing would you? A. No, sir.

Q. You always demanded pay? A. I always had promises to pay.

Q. What was the matter with your wife? A. Misery in the head and back.

Q. Where was she hit? A. She was struck on the side of her head.

Q. Who struck her? A. I could not say that.

Q. How do you know that she was struck? A. Because the bruises were on when I came back. She showed them to me.

Q. You saw the bruises? A. Yes, sir.

Q. You say she has never been well since? A. No, sir; she has always been complaining ever since.

Q. Have you called any doctor to see her? A. No, sir; the doctor has been there. She has never been—to think necessary——

Q. You had a doctor examine her head? A. No, sir, I didn't.

Q. Do you belong to the League? A. I do.

*Re-Direct Examination.*

By Mr. McCorkle:

Q. You stated, in reply to Judge Merrimon, that your wife had not been well since? A. Yes, sir, I did.

Q. What was the state of her health before that time? A. There wasn't a heartier woman in the county.

Q. Upon which side of the head was the blow inflicted? A. I think it was the right side of the head.

Q. Did you say that you showed the condition of your child to any of the neighbors? A. Yes, sir.

Q. To whom? A. Well, there were several black ones.

Q. Give the names of the black ones? A. Prisey Harvey —Prisey Hall—she saw the child right straight.

Q. Who else? A. Annie Garrison saw it.

Q. Where do they live? A. They live there at the Company Shops.

Q. How far from your house? A. When that was done she lived about a hundred yards; we both lived right close together—about a hundred yards apart, I reckon.

Q. You also stated that you were indicted in court? A. Yes, sir.

Q. You say you were indicted for taking some of your own corn? A. Yes, sir.

Q. Will you go on and state the circumstances under which you took it?

Mr. MERRIMON. That is incompetent.

The CHIEF JUSTICE. He has a right to explain.

Q. Go on and state. A. I had a crop of tobacco and a crop of corn, and the man I worked for, he goes in and gathers part of the tobacco.

Q. State first whether you rented the land from him, or how? A. Yes, sir, I had rented the land from him.

Q. What part were you to pay him? I was to get one third of what I made, and he went in and got part of the the tobacco and I wouldn't touch my part. There was a Bureau there at the Shops and I went over to him and saw him about it, and he told me to go back and gather just what I thought was my part. I just gathered it and put

it in my house, and he got out a writ for me and said I stole it.

Q. Who got a writ? A. This man I was working for.

Q. What was his name? A. Wilson Caffey.

Q. Wilson S. Caffey? A. Yes, sir.

Q. State whether you gathered the corn in the day time or not? A. Yes, sir, I gathered it in the open light.

Q. Were there people around there? A. Yes, sir, there were people around there plowing, and they saw me carry it off at the same time.

Q. State whether you bestowed all the labor that was given to this crop.

The CHIEF JTSTICE. That is not necessary.

Mr. McCORKLE. I want him to explain.

The CHIEF JUSTICE. It is understood that he took it because he thought it was his crop.

Q. What was the name of the man in the Bureau that told you to take it.

Mr. GRAHAM. The conversation with the man at the Bureau, I suppose, is not admissible.

The CHIEF JUSTICE. No.

PETER MEBANE, (colored,) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. SMITH:

Q. Will you state whether at any time you have whipped by disguised men? A. Yes, sir.

Q. Describe the whole transaction, how they were d when it was, whether day or night, what season of t &c., give the minutiae of it as ner as you can tell They were dressed in white. They came to my l broke the door and come in.

Q. When did you say? A. Last fall was a They took a rail and bursted down the door and t I was lying in bed and they took me up about a q mile from home as near as I can come at it.

Q. How many were there of the disguised men? A. About twelve of them, I think.

Q. How were they disguised? A. They had on white gowns all over their heads, and great long horns, and I didn't see anything but their hands. Their hands were white.

Q. All their bodies were disguised except their hands? A. Yes, sir.

Q. State what they did to you? A. They just took me out of the house and took me way down the back road.

Q. What do you mean by taking you out of the house? A. They called me out of the house and took me about a quarter of a mile as near as I can come at it. They pulled off my shirt and breeches and made me sit down in the road, and they all stood around me and they all whipped me.

Q. Pulled off your shirt? A. Yes, sir, stripped me right stark naked.

Q. What else did you have on then? A. They stripped me stark naked.

Q. Did you have on pants? A. Yes, sir, they stripped me.

Q. Were you all naked above? A. Yes, sir, they stripped me stark naked; they made me sit down in the road.

Q. You say they took your pants off? A. Yes, sir.

Q. Entirely naked? A. Yes, sir.

Q. You sat down in the road? A. Yes, and they stood all around—just had me in a ring.

Q. How many licks were struck you? A. Well, I was scared pretty bad, it seemed like they gave me about three hundred as near as I could come, I could not tell how many they gave me, I was scared so.

Q. What were you whipped with? A. Hickories.

Q. How severe were the blows—how hard were they hit? A. I was hit pretty bad, it seemed like——

Q. Was your skin cut? A. Yes, sir, they cut the blood out of my back.

Q. What part of your body was whipped? A. Just around my back, here.

Q. Anywhere else but on your back? A. No, sir.

Q. None about your head? A. No, sir, never hit me about the head.

Q. Did one or more give you the whipping? A. They were all whipping me.

Q. All of them did some of the whipping? A. Yes, sir.

Q. You don't know how many they gave you? A. I cannot tell how many they gave me, I was scared so, but it seemed to me they gave me about three hundred.

Q. What time in the day or night? A. It was about twelve o'clock as near as I can come at it.

Q. Twelve o'clock in the day or night? A. The night.

Q. Where were you at the time? A. I was at home.

Q. Where is your house? A. My house was pretty near a quarter of a mile from Mr. McAdams'.

Q. How far from Graham? A. It is near upon eleven miles I reckon.

Q. What direction? A. Out toward Chapel Hill.

Q. That is a southernly direction? A. Yes, sir.

Q. Was there any rope—were you tied in any way? A. No, sir; I was not tied.

Q. Did you make any resistance? A. No, sir.

Q. Do you know from what they said at the time what they whipped you for? A. They whipped me because I belonged to the "Union League."

Q. What did they say they whipped you for? A. They said they whipped me because I belonged to the League.

Q. Do you belong to it? A. Yes, sir.

Q. Did you at the time? A. Yes, sir.

Q. No other cause given for it? A. No, sir.

Q. Did you know any of the men? A. No, sir, and I don't know now.

Q. Did you ever complain of them to any of the authorities? Did you make any complaint to a justice of the peace or grand jury or anybody? A. No, sir.

Q. Why didn't you? A. The boss—the man I was working with, told me not to say anything about it.

Mr. GRAHAM. Stop a little. We submit that it is not competent to prove declarations of that kind.

The CHIEF JUSTICE. I don't think that it is competent to give his own thoughts about it.

Q. [By the Chief Justice.] Did you tell him anything. A. Who?

Q. To the men who whipped you? A. No, sir.

Q. You said they had you stark naked there in the road? A. Yes, sir.

By Mr. SMITH [resuming.]

Q. You don't know any one of them? A. No, sir.

Q. You never made any complaint about it? A. No, sir.

Q. To any of the authorities? A. No, sir.

Q. Do you know whether the matter was brought before a court or magistrate about your whipping? A. No, sir, I do not.

Q. There never was any indictment or anything of that kind that you know of? A. No, sir.

Q. You were never called on as a witnes before in court? A. No, sir.

Q. What did they say to you, if anything, that they had whipped you for? A. They never said a word only they just told me to go back home. They were all standing in the road, and I started back home.

Q. Was anything said about you telling it? A no, sir.

Q. Did you ever see any disguised men at any other time? A. No, sir, I never saw them but once.

Q. Did they ever disturb or trouble you at any other time except that? A. No, sir.

Q. Who was at your house besides yourself? A. Nobody but myself. My wife had gone down to my father's.

Q. You had no children? A. Yes, sir, she had the children. She took them with her.

Q. They were gone with your wife? A. Yes sir.

Q. Did you show your body to any one shortly after this whipping? A. Yes sir, I went the same night, and showed it.

Q. To whom? A. To Mr. McAdams, the man I was cropping with. Mr. William McAdams.

Q. Were you able to work afterwards as you had? A. I did not go to work for three days.

Q. Not able to work? A. No, sir.

Q. How many gashes were cut upon your back, do you know? A. No, sir, I do not know.

Q. Did you show your body to anybody else but this man you speak of? A. No, sir.

*Cross-Examination.*

By Mr. MERRIMON:

Q. Had you been charged with stealing something? A. No, sir.

Q. It was because you belonged to the League? A. Yes, sir.

Q. You did belong to the League? A. Yes, sir.

Q. What part of Alamance county was that? A. About a mile from Mebanesville depot.

Q. Which way? A. Out towards Chapel Hill—Mr. McAdams'.

Q. Would not that make it in Orange county? A. No, sir.

Q. They told you they whipped you because you were a member of the League? A. Yes, sir.

Q. Nothing else? A. No, sir.

Q. You never had been charged with anything? A. No, I am clear of all that.

Q. Clear of stealing? A. Yes, sir.

Q. Were you ever whipped before? A. No, sir, never in my life as long ago as I can remember.

SALLY HOLT, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. SMITH:

Q. Do you live in the county of Alamance? A. Yes, sir, when I saw them I did.

Q. What part of the county? A. Up in Coble's settlement—about a mile from William Coble's.

Q. Just state now when? A. I cannot give you that.

Q. As near as you can get at it? A. It is about some twelve months ago as nigh as I can recollect.

Q. Did you see any disguised men? A. Yes, sir.

Q. How many! A. Well, I didn't see—I never counted them. I don't think there were but four or five the first time.

Q. We will confine ourselves to one time—about four or five the first time? A. Yes, sir.

Q. Did they come to your house? A. Yes, sir.

Q. Just state what they did? A. Well, they never did anything. They just came there and talked a little.

Q. Did they come inside your house? A. Yes, sir, they came inside.

Q. How were they disguised? A. Well they had on sharp peaked caps and black gowns. There was one who had on a white gown.

Q. The rest had on black gowns? A. Yes, sir.

Q. Could you tell who they were? A. No, sir.

Q. You don't know any of them? A. No, sir.

Q. How much of their bodies was disguised? A. All over.

Q. Face and all? A. Yes, sir.

Q. Did they come into your house? A. Yes, sir, they came in there.

Q. State what they said and did to you? A. Well there were a couple of boys there, and they took them out. I cannot tell what they did with them.

Q. What did they say they were going to do? A. They didn't say what they were going to do. They told them to come out.

Mr. GRAHAM. I would like to have the witness describe his scene without interrogation

Mr. SMITH. I wish she would.

The WITNESS. They never came back to the house after they took these boys out.

Q. Did the boys live at your house? A. Yes, sir, they were young boys that came there one Saturday night.

Q. They were carried off, and never came back to your house? A. Yes, sir, they came back once more.

Q. No, I mean those boys? A. Yes, sir, the boys were there after that.

Q. Were they back any more within a day or two? A. Well they came back that night, and got their coats after they left.

Q. They went off then without their coats? A. Yes, sir, they took them off without their coats on.

Q. They came back afterwards? A. Yes, sir.

Q. Do you know whether they had been whipped? A. They said they hadn't.

Q. Did you see any marks about their persons? A. No, sir.

Mr. GRAHAM. It is not evidence. She said they said they had not been whipped.

Q. There were no marks of whidping? A. No, sir.

Q. How long were they gone? A. Something about a quarter of an hour.

Q. Did you hear any cries when they were gone. A. No, sir.

Q. What boys were they—what were their names? A. Alson Shoe and Lewis Baines.

Q. What time in the night was it? A. I cannot tell you. It might have been 10 o'clock, and it might have been more—it might have been midnight.

Q. They didn't do anything to you? A. No, sir.

Q. Did they come to your house at any other time? A. Yes, sir, they came there once. I was not at home, and they threw my things out.

Q. You were not at home? A. No, sir.

Q. Just state what you found when you got home? A. I found the things sitting out in the yard.

Q. Things that you left in the house? A. Yes, sir.

Q. Was there anything in the house? A. My property was in the house.

Q. But when you got home? A. No, sir.

Q. Was the house cleared, I mean? A. Well, there was a pair of bedsteads sitting in the house.

Q. Was that all? A. I think that is about all.

Q. The rest of your things were out in the yard? A. Yes, sir.

Q. Was anything broken about it? A. No, sir, only the door was torn down.

Q. How did you leave the house when you went away? A. We shut the door.

Q. Did you fasten it? A. Yes, sir, I went off to work.

Q. How did you fasten it? I didn't lock it; I just latched it inside.

Q. Could it have been opened without breaking it open? A. Well, yes, it could have been pushed open. There was a crack at the end.

Q. A string or something to latch with? A. No, there was a crack at the side of the door to run their hands in.

Q. That was the way it could be opened then. There was not anything there that would show itself to anybody? A. No, sir.

Q. You say you found it broken open? A. Yes, sir, the door was down.

Q. Was the door on the hinges or off? A. It was off the hinges.

Q. Was there anything broken about the door except the fastenings? A. No, sir, I don't think there was.

Q. Did you see any men going to your house that night? A. No, sir.

Q. Was it in the day or night time? A. I don't know; I was not at home that night; I was off at work the day before, and did not come home that night.

Q. When did you go home? A. The next morning, or the next day.

Q. It took place then during your absence? A. Yes, sir.

Q. Did you see anybody about the premises? A. No, sir.

Q. Going there and coming away from there? A. No, sir.

Q. Did you leave anybody at the place to take care of your house? A. No, sir, we were all gone.

Q. You don't know who did it? A. No, sir; I did not know.

*Cross-Examination.*

By Mr. MERIMON:

Q. What did they pull your house down for? A. They did not pull it down.

Q. What did they take your things out for? A. I did not take them out, somebody had taken them out.

Q. What did *they* do it for? A. I could not tell you, I was not at home; I was off to work the day before.

Q. You don't know who did it? A. No, sir.

Q. Was that in Alamance? A. In Alamance.

Q. What were those young men doing in your house that night? A. Well, I dont know. They said they came to see my boy. There was one young man, he had just come in from Indiana.

Q. Did you have any daughters? A. Yes, sir, I have two.

Q. How old were they? A. They were grown, one of them was.

Q. Did they go to see those girls? A. They did not say they did.

Q. Did not they go to bed with the girls? A. No, sir, we were all up when they came.

Q. Did they go to bed with the girls? A. No, sir.

Q. What did they have their coats off for? A. They were sitting before the fire. They had been playing like all young folks.

Q. Didn't they go to bed that night with your daughters? A. No, sir.

Q. With you? A. No, sir, we were all up.

Q. Was it complained in the neighborhood that you kept a sort of bad house? A. No, sir. Some of them had such a chat ——

Q. You did not? A. No, sir, I didn't.

Q. Are you a married woman? A. I have been married.

Q. Is your husband living now? A. My husband is dead.

Q. When did he die? A. He died about the time of the surrender, or a little after.

Q. Have you had any children since his death? A. No, sir.

Q. Did you keep a nice house? A. I always tried to do it as nigh as I knew how. I never kept anything else if I knew it.

Q. Have your daughters any children? A. There was one of them got one, but she had that before her father died.

Q. Is she married? A. No, sir.

Q. Where do you live? A. Close to Cane Creek factory.

Q. Where is that, in Guilford or Alamance? A. I think it is close to the line of Chatham.

Q. Have you moved about many times? A. No, sir.

Q. Do you live out in Chatham now? A. No, sir.

Q. Whose land do you live on? A. I am staying with an old man taking care of him.

Q. What is his name? A. Peter Boggs.

Q. Whose land were you living on at the time they took those things out? A. My Uncle Mike Shoffner's.

Q. You say there was no complaint about your house? A. No sir, not that I know of only by somebody that was mad at me.

Q. The boys that were there had simply come to see your daughters? A. That one had never been there before or since, he had come in from the west.

POLLY HOLT, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. SMITH:

Q. This last witness Sally Holt is your mother? A. Yes, sir.

Q. Where did you live last year? A. We lived in Alamance.

Q. Did you live with your mother? A. Yes, sir.

Q. Do you know anything about any disguised men coming to the house? A. Yes, sir, I saw them.

Q. How many and when—what time of day or night? A. There were four or five the first time, I don't know how many there were the next time.

Q. What time of the year was it? A. I don't know that—I don't remember what time it was.

Q. What did they do? A. Well they did not do anything only they took some young fellows off. There were two young fellows there; they did not do anything.

Q. Colored boys? A. No, sir.

Q. White boys? A. Yes, white boys.

Q. Do you know whether they were whipped? A. No, sir, I do not.

Q. Did you see them any where that night? A. No, sir, I did not see them any where that night. I don't think they came there that night again.

Q. When did they come for their clothes? A. I don't remember whether they come back or no.

Q. You don't remember seeing them that night? A. I don't remember whether they came back that night or not.

Q. They did get their coats sometime? A. Yes, they got their coats but whether they come back that night or the next morning, I don't know.

Q. Did you hear these men say what they were going to do with those boys? A. No, sir, they said they must come and go with them and they took them out and I don't know what they did with them after that.

Q. How long were they gone? A. Which, the boys?

Q. Yes. You don't know whether they came back any more? A. No, sir, I don't remember.

Q. Did you see any marks of injury to those boys within a

day or two after that—marks as of a whipping? A. No, sir, I did not.

Q. You stated there were four or five at that time? A. Yes, sir, there were four or five.

Q. How many came in the house? A. They all came in.

Q. Were there any outside? A. No, sir, they all came in—all that I saw in the yard.

Q. Were they on foot or horse back? A. On foot I reckon, they came up to the house——

Q. Did you know them? A. No, sir.

Q. Why did not you know them? A. How could I know them dressed as they were, they scared me so I did not know them.

Q. Did they have disguises? A. I suppose they did—faces all covered I did not know them.

Q. What sort of disguises did they have? A. They had on black gowns, caps and faces all covered.

Q. Were all of them disguised like? A. Yes, sir, the first time. The next time there was one that was dressed in white.

Q. We have not come to that yet. This first time they were dressed in black? A. Yes, sir, the first time they were dressed in black.

Q. When did they come a second time? A. About four or five weeks after that they came there again.

Q. How many came the second time? A. I don't know how many there were.

Q. Who was at home? A. We were all there.

Q. What did they do the second time they came? A. They did not do anything.

Q. Do you know what they came after? A. No, sir.

Q. Did they come in the house? A. Yes, sir, some of them; they did not all come in.

Q. Who was in the house besides you? A. My mother and sisters and brother.

Q. You did not know what they came after? A. No, sir.

Q. Did they do any act of violence to the house or anybody there? A. No, sir.

Q. They were dressed in white you say? A. They were all dressed in black but one. He was dressed in white.

Q. Did you see them any more? A. No, sir.

Q. Do you know anything about the house being broken open and the furniture being put out in the yard? A. Yes, sir, it was. When we went home the next morning—we were not at home that night—the things were lying out in the yard.

Q. Where did you stay that night? A. At William Kinney's.

Q. How far off from the house? A. About a mile and a half from there I reckon, and I don't know but two miles.

Q. You don't know who did that? A. No, sir, I do not know, the things were out the next morning when we got home.

Q. Was the furniture put out carefully or not? A. It was laid out and there was nothing broken.

Q. Did you see the door? A. Yes, sir.

Q. Was it broken? A. It was lying in the yard before the door off the hinges.

Q. You don't know who were there that night and did this? A. No, sir, I don't know who were there, I did not see them, I don't know who.

*Cross-Examination.*

By Mr. Merrimon:

Q. What did those young men come to your house for the first night? A. Well, they came there and said they wanted to see my brother. They were going on up to his uncle's. Bane was going to his uncle Bill's.

Q. Didn't they go to bed? A. No, sir.

Q. Are you sure of that? A. Yes, sir.

Q. They didn't talk to you that night? A. Not when they came back.

Q. Before they went away didn't they talk with you? A. No secret talk.

Q. What were their coats off for? A. They were playing around there.

Q. What time of the year was it—cold or hot weather? A. It was so long ago I don't know. I have forgotten.

Q. Had you a fire? A. Yes, sir, had on a fire.

Q. A big fire? A. Yes, sir, a big fire.

Q. It must have been cold weather? A. Well, they were fooling around with my brother, scuffling and pulling his coat off.

Q. Have you ever been married? A. No, sir.

Q. Have you got any children? A. Yes.

Q. White or black? A. White.

Q. You say when they first went there they had black gowns on? A. Yes, sir, the first time they came there they were all dressed like——

Q. I notice you spit very much. Do you chew tobacco? A. Yes, sir.

Mr. SMITH. I should like to ask the previous witness, Sally Holt, in regard to the second visit of these disguised men at that house. She only spoke of the first and the last visit.

The CHIEF JUSTICE. You may call her back.

NED STROWD, (colored), *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCorkle.

Q. Where do you live? A. I live with Mr. Mebane.

Q. In what county? A. In Orange now.

Q. How long have you been living in Orange? A. I have been living in Orange going on two years.

Q. Go on and state whether any outrage was committed on you in the county of Alamance? A. Yes, sir, just two weeks before christmas a year ago—three weeks before christmas a year ago, I was living at Mr. William Thompson's. I done all his hauling and driving a wagon for him, and he was taken down very sick, got out of his head, and his brothers expected him to die and had taken the business out of his hands

and took it into the hands of themselves, and sold out his horses and things, and turned and rented the land out to other common white people. But he got well before they got the business fixed to take the land. And then he preserved off a lot for me again to still stay with him and still work for him and drive his wagon and wait upon him. I was moving his property from Greensboro', driving the wagon for him, and after I got done hauling for him he preserved a house off, and had me with his team and moved me to it. There were four white people living on the place—four besides me—that had rented the land. He moved me then to his house and told me where my ground was that I should have, and preserved me off a horse and handed it to me to work. I goes then and sows some wheat in a lot he gave me. I didn't have but a little to sow and sowed it in a little lot. Mr. Lasley come along and said——

Mr. GRAHAM. You need not state what Lasley said.

Q. Now tell what these men did to you?

Mr. GRAHAM. Let us see if they did anything.

The WITNESS. These disguised men you are speaking of?

Q. Yes? A. They came on me about a week and a half after I moved there. They came to my house and called me out. I heard some one coming—I didn't know what it was. I got up. I had been helping Mr. Thompson kill hogs on that day, and though I was very weary, they came to the door and struck a match and asked me to come out. I told them, "My "wife was a little poorly, I didn't wish to be disturbed to "night," and they said, "That mattered not; they wern't "going to hurt me, to come out." They then said, "Open the "door, I ain't going to hurt you." I opened the door and they said, "Come out." One of them said, "D—n you, if you "don't come out I will shoot you.'. I walked out then, and there was a small one run up to me caught me by the back of the neck and said, "D—n you, I've got you now;" and another one said, "You had better hold him or he will run." I says, "No, sir, I will not run." Some of them run into the house

and said, "Have you got 'ary gun?" "Yes," said I, 'I have "got an old gun, but it isn't of much account." They got hold of it and threw it out of doors, and when they got it out of doors they broke it across a tree. Another one of them took my ax out of the house and pitched it off a distance. They then asked me what I thought of them. I told them I didn't know what to think. He said, "D—n you, what do you think?" I said, "I don't know what to think, sir." He says, "Do you know me?" I says, "No, I don't know you." "Well," he says, "D—n you, it is a fine thing you don't." He then says, "Put on your pants." I put them on. He said then, "I want you to go to toting these things out as soon as you can. "Haven't you got any children to help you tote them out?"

Q. Tote what things out? A. Tote my property out. He said, "Haven't you got any children to help you tote them out?" I said, "Well, I have got a little boy and two girls"—two daughters, and they were up in the loft asleep,—a lying down. I didn't know whether they were asleep or not. One of them caught up a light and ran up there and stamped on the floor and scared them a great deal, and one of them fell down and rolled down on the steps. He ran on down after them, and hollowed to them to tote them things out as fast as they could. They all set in, and my wife set in too and helped carry the things. She had a little baby about three months old. I had killed my hogs and had three of them lying on the floor. They told me to put everything out. I put my hogs out and then put out the beds and other things; and then they went up and said, "You have got corn like a white man." They said, "You may put out everything else but your corn and wheat, and you can let them stay till morning, and you must get that out to-morrow." They made me go out then and take out some fire out of doors and built it up. They then said, "If you put anything else back in there I will put you inside, shut door and burn the house and you in it,"—and, "We have put these things out here and you must stay here till morning." I had hauled a couple of loads of wood

the day before, and I made a good fire and they stood over me till I got a fire built. They began to whisper and talk a little. One of them said to me, "Pull off your shirt." I pulled my shirt off and they said, "Step up there beside that tree and hug the tree." I put my arms around the tree, and one of them said, "D--n you, don't you take your arms away," and they struck me between twenty and thirty licks. It hurt pretty bad, I know. When they got that done they told me to turn around to the light. I turned around, and he said, "He has got a pretty good whipping." Then he says, "Put on your clothes, boy, and you stay here till day; and if you say anything about this I will come back and kill you."

Q. What time was it when they came? A. It was between eleven and twelve, sir.

Q. At night? A. Yes, sir.

Q. State whether they had any weapons with them? A. One gun, and one of them had a switch, and the others had sticks, as well as I could see.

Q. State how many there were? A. There were between sixteen and eighteen. I could not notice them enough to keep account. I was a little sort of frightened, but as well as I could count after they started off there were about sixteen, as well as I could make them out. Whether there were more or not, I couldn't tell.

Q. State how they were disguised? A. They had on white gowns that came down a little below the knees, and clothes that came over their heads there; and they had something twisted up here: red, I know, [indicating the head.]

Q. A horn? A. It was made up for a horn, I reckon, but it was cloth, and was dyed or painted—something of that sort. The mouth had some red—the cheeks and mouth and eyes.

Q. How far did they carry you from your house? A. Didn't carry me more than ten steps—right up to the corner of the house.

Q. Where was your family at that time? A. Standing out there by me.

Q. State who constituted your family at that time? Who was there at home? A. Of my family?

Q. Yes? A. All of my family. There were eight children and my wife.

Q. Where were they when they were beating you? A. They were in the house at that time—two of the children were in the house and my wife, I believe, was in the house and the balance of the children were standing around the fire. I think two of them were in the house.

Q. You say they told you after the removal of everything out of that house that if you moved anything back in there, they would do what to you? A. They would come back and burn the house up, and me in it.

Q. State how long you had been over in Alamance? A. I had been over there in four years. I hadn't been living at that house four years, but I had been living with the same man four years. I had been living there only about a week and a half.

Q. You had been living four years with Mr. Thompson? A. Yes, sir.

Q. Is he a minister? A. Yes, sir.

Q. How many lashes do you say they gave you? A. Between twenty-five and thirty, as nigh as I could give a guess, but they didn't hit me higher than thirty.

Q. State whether you were injured by this whipping? A. Well, I was sore about two weeks, so sore that I could not lie on my back.

Q. Did you do anything for your back? A. No, sir, only my wife picked out two pieces of stick out of my back.

Q. How long were the sticks or splinters that you pulled out? A. I reckon one of them was about an inch and a half long, and the other was about half an inch.

Q. What kind of instruments did they use in whipping you? A. What sort of switches?

Q. Yes. A. Well, I could not give an account—they took

it off with them; the pieces that were in my back were hickory.

Q. How many whipped you? A. There was not but one that whipped me any.

Q. State whether you ever saw persons in that county disguised before that or since that time. A. Never, sir, since or before.

*Cross-Examination.*

By Mr. MERRIMON:

Q. What did they do that outrage for? A. Well, I cannot give any account. They did not tell me what they did it for.

Q. You had a row there about the land? A. No, sir.

Mr. McCORKLE. I wish to ask a question which I neglected to put.

By Mr. McCORKLE:

Q. Did you ever indict these parties for this outrage? A. No, sir.

Q. Why? A. I didn't know whom to indict.

By Mr. MERRIMON [resuming].

Q. You had had some controversy about the land, didn't you? A. No, sir, not a bit.

Q. You all lived in peace? A. There had been all along. Every one that was there seemed to be very sociable.

Q. Was there a desire that you should go away from there? A. Well, if they did, they didn't tell me—not the people on the place.

Q. You had no controversy with any body about it? A. Not on that place, nor any where around, as I know.

Q. Did any of those men say there that you must not stay there? A. No, sir.

Q. None of them on the place? A. None of them on the place—Mr. Quackenbush and Mr. Thompson ——

Q. I don't want what they said? A. I say Mr. Quackenbush lived there and Mr. Thompson, and Mr. Lasly, and Mr. Quackenbush again. They never, any one of them, spoke to me any way in offence at my living there.

SALLY HOLT, *a witness re-called on behalf of the respondent, testified as follows:*

By Mr. SMITH:

Q. In your former examination you stated one occasion where some disguised men came to your house and carried off the two boys that were there; and you spoke also of going away home and coming back the next day, and finding that door down. Was there any other time when disguised men came to your house? A. No, sir—I didn't say the next day after that.

Q. I am not speaking of the time, but was there any time when disguised men came to your house, other than that when they carried off these two boys? A. Yes, one time after that.

Q. Just state all you know about that? A. They came there one night—we were all gone to bed then—and halloed. I got up, but before I could get up they opened the door and came in; they came in then and accused me of telling that they had been there at that time. I cannot tell you how many there were. There looked like a right smart of them.

Q. What did they say to you? A. They said they had heard I told that the Kuklux were there.

Q. That you had told about their being there before? A. Yes, sir.

Q. What else did they say to you? A. Not anything only they said if I ever told again they would kill me.

Q. Did they use any language of violence to you? A. No, sir, not then. There was one of them dressed in white.

Q. How were they dressed? A. In black, all but one. He had on a white gown.

Q. How many of them were there? A. I cannot tell you, for I didn't count them, but they looked like there might have been twenty.

Q. Do you think there were as many as twenty? A. I think there was.

Q. Was it day or night? A. In the night.

Q. What hour of the night? A. I reckon about midnight, or may be after.

Q. Was that before or after your door —— A. No, after the first time they were there.

Q. Was it after the door was taken down and the things were taken out of your house? A. The next time I wasn't there—when the things were taken out.

Q. But was this second visit they paid you before they took your door down? A. Yes, sir, that was the second time.

Q. How long was it before your door was taken down after this second visit? A. I don't think it was more than a week.

Q. How long was it between the first and second visits that they made at your house? A. Well, I declare, I cannot tell you, to be certain.

*Cross-Examination.*

By Mr. MERRIMON:

Q. Do you know whether these men were black or white? A. No, sir, I don't.

Q. [By Mr. Smith]. Was there ever an indictment of these persons that you know of? A. No, sir.

Q. Were they black or white men? A. I couldn't say.

Q. Did they have on black gowns? A. Yes, sir.

Q. Horns? A. Yes, sir.

Mr. BOYDEN. The witness says they were all dressed in black but one, who was dressed in white.

GREENE MURRAY, (colored) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCORKLE:

Q. How old are you? A. About fifty, sir.

Q. Where do you live? A. In Orange.

Q. State whether you ever lived in Alamance? A. Yes, sir.

Q. How long have you been living in Alamance? A. Yes, sir.

Q. How long have you been living in Alamance? A. Living there all my days, sir.

Q. Go on and state whether you ever had anything to do with disguised people and all about it. A. Well, sir, I can tell you what they had done when they came to my house. I am a man that wishes to tell the truth. They came to my house, and it was a little gathering,—my boy had neighbors come in.

Q. State who you boy is? A. Jacob Murray. I was in there sitting, and I told the boys to ask leave from the boss of the house to pass a little time genteelly.

Mr. GRAHAM. I would like to know, Mr. Chief Justice and Senators, how many witnesses the gentleman proposes to bring to testify to the same scene. I understood—perhaps I am not well informed—that an agreement was made, or a proposition passed the legislature before this trial commenced that two witnesses would be sufficient for testifying to each transaction. I think we have had three or four in regard to the party given at the house of the man Jacob Murray, already. This witness, I suppose, is called to repeat the same narration.

Mr. McKORKLE. We have had, Mr. Chief Justice, only one witness as to these whippings. Jacob Murray did not go down there. He did not see it at all, and the other witnesses that we introduced—Greene Freeman and the other witnesses who were whipped—spoke of being jointly whipped, but could not state as to the injury to the child. Then there was some discrepancy in the testimony and an effort was made on the part of the prosecution to make it appear that the testimony in regard to the trampling upon the child was not true.

Mr. GRAHAM. The counsel examined Jacob Murray, Damon Holt and Greene Freeman in regard to those transactions.

Mr. BOYDEN. And they proved two whippings.

The CHIEF JUSTICE. What do you propose to prove by this witness?

Mr. McCORKLE. We propose to prove by him what occurred in the house, and that he heard the whippings. We

would have a right to prove it by six witnesses, supposing they had been present.

The CHIEF JUSTICE. That is no matter that the presiding officer can notice. You can prove it by half a dozen witnesses, but it may have some effect upon the action stated to have been taken by the counsel [Mr. Graham.] The presiding officer had not heard of that.

Mr. McCORKLE. I beg to call the attention of the gentleman to the second section of the act.

The CHIEF JUSTICE. The presiding officer does not care to hear the act discussed. You can ask this witness about what took place at the house.

Q. Go on and state. A. As I said when I commenced, I want to tell the truth——

Q. Go along and get to the house? A. They come to my house and we didn't know anything of the sort was out. They come to the door and they come abreast, I don't know how many. They knocked the door clear off the hinges, and they come in and they commenced shooting as quick as they entered in, with little pistols of some sort—went to shooting up above their head, like; and from that they raised an alarm undoubtedly amongst us and frightened us a good deal, and commenced shooting and frightening, unexpected to us all. In the scuffle my little grandchild come to get injured by some means, in this 'ere scuffle that had taken place. That is the way it come to be injured.

Q. State how that scuffle was? A. Well, sir, it was running and shoving and turning a great many ways.

Q. What were they running and turning a good many ways for? What were they after? A. They said, after they come to be silent, that they were after Damon. They didn't interfere with me any more than that they hurt my feelings on account of my child—that was all. And when they got him settled so that they could get hold of Damon and take him out——

Q. But before they got hold of Damon, what took place

with the mother and your grandchild? A. Well, she had the child in her arms, you know, like a woman will have a child, and they were running, and they seemed in a scuffle. He was scared and they knocked the child out of her arms, and it got mashed, some how or other under——

Q. Under some of them? A. Yes, sir, seemed to get it out of her arms and she was trying to get it, and in such a crowd it got mashed some how or other, underneath.

Q. State how long the child lived? A. It just lived about two weeks.

Q. State what its condition was before? A. Well, it was very healthy before this thing had taken place—very healthy apparently, and it was buried over there. I am working at the very place where the child was buried.

Q. Go on and tell what they did after that? A. Well, they called for these men.

Q. What men did they call for? A. Greene Freeman and Jerry—— they just call his name.

Q. Jerry Lynch? A. Jerry Lynch, and Greene and Damon. Well, after they got them they seemed to get what they called for and seemed to be satisfied; and I told them to let them be quietly, and let the men see what they were going to do; and they got them three out. It seemed like that was their choice. They told me to shut the door and keep the door shut until sunup; and I being the head of the house, I done so,—commanded them all to sit in there till that time, and so they did. We didn't go any further with it. I told them all to be quietly till everything got over.

Q. They directed you then, you say, to keep the door shut up till sunup? A. Yes, sir, I done so, sir.

Q. With all the crowd that was there? A. Yes, sir, all the crowd shut in;—it didn't take much of a door to hold them after that. They didn't pretend against opening the door, neither.

Q. State what they did with these men. A. They just carried them out sir; I am not able to tell, then, what they did,

Q. Did you hear any noise? A. I didn't hear it myself, because I was in there amongst my family. What I tell you, I saw, and outside of that I haven't any business.

Q. State how the child was,—what its symptoms were. A. Well, it come to be so, sir, after that, that its mother could never raise it up, sir, with no kind of peace, excepting it screamed. She couldn't catch hold of it in no place, to raise it up that it had any pleasure at all. That is the truth.

Q. Couldn't take it up? A. No, sir, it seemed to halloo.

Q. With pain? A. Yes, sir, it seemed to halloo when she took it up.

Q. Did you state how many there were that came? A. No, sir, I reckon there might be about a dozen or something of that matter together in the house.

Q. Were they on horseback or on foot? A. They were a foot.

Q. Did you see whether they had gowns on? A. Yes, they had gowns on. Whether they were white or black I couldn't discover, only their gowns touched the bare floor. I didn't see nothing that I could discover that looked like human.

Q. Did you think they were human? A. Well, at that time I didn't know.

Q. Were any of the parties ever indicted? A. No, sir.

Q. Why? A. Well, it is a thing we didn't know how to take hold of to carry out; and if a man takes hold of a thing that he don't understand, he had better let it alone; we come to that conclusion.

Q. Did you know any of the parties? A. No, sir, I didn't know any of them at all.

Q. Didn't know anybody? A. No, sir, I didn't know—I could'nt take my oath and come up before this majority and say that I know them.

*Cross-Examination.*

By Mr. Merrimon:

Q. What did these men want? A. I am not able to tell

Q. What did they charge them with? A. I am not able to tell that.

Q. Did they say? A. No, sir, they didn't tell me; if they told them, it is more than I know.

Q. Did you know anything about the three men they got? A. They were raised right there in my neighborhood, and they seemed to stand ——

Q. [By Mr. McCorkle.] Seemed to stand how? A. Seemed to stand fair in that neighborhood.

Q. Were they charged with stealing about there? A. No, sir.

Q. Not one of them? A. No, sir, not one of them that I knew?

Q. Never had been? A. No, sir.

Q. Did you ever know of one of them being whipped before? A. No, sir, never knew of it.

Q. [By Mr. McCorkle.] You said they stood fair in the neighborhood? A. Yes, sir, in the neighborhood amongst the people, sir.

ALPHONSO GERRINGER, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCorkle:

Q. State where you live. A. In Guilford county.

Q. State whether anything was done to you in Alamance county, or not. A. Yes, sir, it was down in Alamance county.

Q. What was done, tell all about it. A. Well, I was going to a debate one night, and met up with two men. I was going with my cousin; he came past my father's, and he asked me to come to a debate with him.

Q. Who was your cousin? A. William Gerrenger, and I was going on with him. Before we got there I heard somebody halloo out, not natural, and I told him I heard somebody that did not halloa out natural—"What does that mean?" He said he did'nt know.

Mr. GRAHAM. You need not speak of your talk with him.

Q. State what sort of a noise you heard? A. Well, it didn't appear to be a natural voice at all. We went on a little further, and I heard it again, and he said it was some of them boys over there at the school house holloaing—they were about broke up. He said, "Let's hurry, or they will be gone before we get there." I went on a little further, and I saw two disguised men, or they appeared like men—I didn't know. They came out of the bushes right so, and throwed their hands up.

Q. Tell how they looked. A. Well, they were disguised men—had these white gowns on and horns about as big as my arm. We were in the big road—he goes right up the big road, mind you, and me after him. Well, they caught me, and he got away; but after they had caught me I say, "Cousin Bill, come here," twice or three times, I don't recollect—I tell the truth about it. He says, "I can't." He went on a little further, and I called him again. He says, "I can't." Well, they took me just about a quarter of a mile before they stopped with me. I called them "friends"—I was scared so. I says, "Friends, what have you got me here for, I haven't done you any harm nor any other man at all?" Well, they said they were going to take me down here in this piece of woods. I went along with them. If they had asked me to go anywhere I would have went with them; no matter where they had wanted me to went I would have went. I knew I couldn't fight them two men against one—I couldn't do anything. Well, I just walked along there. When I got down there they said they were going to kill me, to hang me. They had a wythe. There had been a big tree cut down in time, and there is a hickory; there is a wythe that grows out as long as my arm. I fell down. One of them raised me up and pulled the wythe around my neck and let me down ——

Q. State whether it hurt you or not? A. No, sir, it didn't hurt me. I concluded that they took me along just to bother me.

Q. You needn't tell anything you concluded. Just tell what was done? A. Well, they hung me up and told me that I had to pray—that they were going to kill me. Well, I didn't know what they were going to do—didn't know what sort of men they were.

Q. What did you do? A. I got down and prayed—right there, [laughter.] Well, they put me up again and let me down, and they told me I had to run. Then you had better seen me running—I told my legs to save my body if they could, and I didn't see any more of them at all. [Great merriment.]

Q. [By the Chief Justice.] Don't try to be funny. Just tell the truth. A. Well, that's it.

Q. That is the last you saw of them is it? A. Yes, the last I saw of them.

Q. How many of them were there? A. There wasn't but two. They looked like two men—I don't know whether they were or not. I ain't used to the critters. [Laughter.]

By Mr. McCorkle, resuming.

Q. State whether you have ever seen any persons disguised before or since them? A. Yes, sir, I saw some come to my father's before that, but I didn't know them.

Q. State how many? A. There were seven or eight—I can't say which—right certain I don't know.

Q. How were they dressed? A. Well, they were disguised—had white on—and horns—all over the face, down to the ground you may say.

Q. When was that? A. When was it they were at father's?

Q. Yes. A. Well, sir, I can't recollect now about what time it was; I think, as far as I could mind it, it was sometime along last fall, but right the very time I cannot tell you.

Q. What did they do there? A. Didn't do a thing; they came and called for some water, and we gave them water; they didn't offer to pester any one there at all.

Q. Are those the only two times you ever saw them? A. Yes, sir, those are only two times I ever saw them.

*Cross-Examination.*

By Mr. MERRIMON:

Q. Who were they? A. I don't know.

Q. Did you ever tell anybody who did it? A. No, sir.

Q. Did you ever charge anybody with it? A. No, sir, I didn't know who it was.

Q. Did you ever charge Daniel Whitesell with it? A. No, sir

Q. Do you know what they did it for? A. No, sir, I did not.

Q. Didn't you know that they did it because you had insulted some old lady, or a lady, or saying something vulgar to her? A. No, sir; I heard of this after this deed was done, but I never did upon my honor—never made a raid upon an old woman. [Laughter.]

Q. When did you say this was? A. That they took me out?

Q. Yes. A. It was last April; along the first of April. It was last fall they were at my father's house, but it was last April when they had hold of me.

Q. That was a matter of report, any way, wasn't it? A. I suppose; I don't know any way.

Mr. SMITH. Just state what occurred; not what you supposed.

Q. Did you understand it to be a joke? A. I guess so, I didn't know. I never done them any harm, nor no one else, and they didn't do me much harm at all, but just the way I told you.

Q. They were all boys—they were boys weren't they? A. I cannot tell you; they looked like men; I don't know whether they called themselves boys, or men or what.

Q. [By Mr. McCorkle] You say you were frightened? A, Yes, sir.

LINN B. HOLT, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCORKLE:

Q. Where do you live? A. Alamance.

Q. What is your age? A. Twenty-eight.

Q. Will you go on and state whether you have ever seen any person disguised, and when it was—all about it. A. Some time about the 1st of April——

Q. What year? A. 1870, a disguised party of men came to my house—some twelve or fifteen in number—they called at my gate and told me to come out, and not to be alarmed. I did so and they asked me how things were going on in the neighborhood. I told them, as far as I knew, everybody was behaving themselves, and so on. They told me where they had been, and what they had done. They told me they had been up to see Ham, a negro that lives some two miles from my house; said they didn't think he had been behaving himself as he ought to have done.

Q. What did they say they had done to him? A. They said they had dressed him off,

Q. Was there any reference in that conversation to the hanging of Outlaw?—anything said about any other citizens? A. They said that Outlaw had been hung and told me to tell William Albright—Bill Albright—that Outlaw had been hung and there were others to be hung—that they had understood that Albright had organized his party to devastate the county, and to appoint some time and place and they would meet them.

Q. To tell him that Outlaw had been hung, and that other persons would be hung? A. Other persons had to be hung. They had understood that he, Albright, was organizing his party to devastate the county.

Q. How many were there? A. Some twelve or fifteen in number.

Q. What time in the night was it? A. It was between twelve and one o'clock.

*Cross-Examination.*

By Mr. Merrimon:

Q. They told you that Albright was organizing a party to devastate the county? A. That he had understood Albright was

organizing a party to devastate the county. He did not say what county.

Q. Did he say anything about Albright having a quantity of arms stored there? A. No, sir.

Q. Where do you live? A. I live six miles from Graham at Alamance factory—within a mile of the Alamance factory.

Q. What direction? A. Southwest.

HAMILTON BRIEN, (colored,) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCorkle:

Q. Where do you live? A. Guilford.

Q How old are you? A. About thirty-nine.

Q. State what you know about disguised persons, if you have ever seen any, and if so, under what circumstances? A. They came to my house this March twelve months ago.

Q. What did they do to you and tell how many came? A. Some fifteen came there. They came to the door and knocked at it and told me to open it.

Q. [By Mr. Manager Sparrow.] What county? A. Alamance. I got up and went to the door and three men gathered hold of me and one said, "God d—n you, you buss a white woman, will you?" I denied it. He said, "If you deny it I will kill you." Then four or five tore off my shirt and held me there, one arm each way, and held me there. One asked me, "Who lives in that house." I said, "John Fogleman." They took me by the arm and led me before his door and they called for John Fogleman and he came and they shook him a little and then turned him loose. They said, "Don't hurt him, he is an officer." I stood there naked sometime and they went backwards and forwards in the house. Then they came out and formed a line. The same man, the captain of them, said, "Form in a line." They made a ring and set me up in the middle. He said, "Don't hit him any more licks than I do and don't hit him any harder." Then the captain first struck eight licks and the balance struck after him. He struck eight and handed the

whip to the balance and they kept on in that way all whipping around. He told me to put on my shirt when he was going to whip me but one said "Don't whip his shirt for it hasn't done anything." The captain said put on my shirt and I put it on then they whipped me. After they had done whipped me they said they wanted to shoot my dog. I told them to shoot him. He said I will not shoot him, but you may shoot him yourself. They went into the house and they took everything there was in it. I had a daughter in the house who had a baby two weeks old: she ran out barefooted and wanted Mr. Fogleman to let her in his house; but he never let her in. At that time there were a crowding around and they made my women go in.

Q. What women? A. My women.

Q. Did you tell what time in the night it was? A. It was between eleven and twelve o'clock at night. After then I went back and and stayed there a while, they said "You will have to go in ten days," I said "Where am I to go?" He said "You are to go in the woods and take fare like I do." He said "If you are not gone in ten days we will come back and hang you." I said, "Must I go back in my house?" He said "You are not going in your house." I stayed in the yard and they started over the fence and I commenced picking up the things and putting them in the house and I laid there and slept until morning.

Q. What was your condition when they whipped you, was your shirt off? A. No, sir, they whipped me with my wagon whip and when they were done they dropped it in the yard.

Q. State whether you were whipped hard or whether it was light? A. They hurt me right smart and raised some welts but they didn't cut the skin open.

Q. Did you exhibit your back to anybody? A. No, sir.

Q. You never showed it to anybody? A. No, sir.

Q. How were they disguised. A. They had on white gowns all over and the one that was the captain had on a long looking hat something that sat on his head. The balance was all in white.

Q. Did you know any of the party? A. I didn't know but one man I saw in the yard.

Q. Who was that? A. Mr. John Fogleman who came out of the door.

Q. How far is Fogleman's house from you? A. About three steps, there is only a little walk between.

Q. Was there a fence between your house and Fogleman? A. No, sir, these were all in the same yard.

Q. How long had you been living there? A. I had been living there three years.

Q. You say that after your daughter went to Fogleman's and wanted to get in they were ordered to return into the house. A. Yes, sir.

Q. What they order them to do? A. They told them to go back into the house—that they were not going to interfere with them.

Q. How old was this child of your daughter's. A. Two weeks old. My daughter had never been out of the bed until that night since the child was born.

Q. The one that run out with the child? A. Yes, sir.

Q. Did all your family run out? A. Yes, sir.

Q. How far did they go from your house? A. Not ten steps. I was right in front of John Fogleman's when they whipped me.

Q. How was the weather? A. Very cold.

Q. Did they tear your shirt off? A. Yes, sir, they did'nt pull it off, they tore it off.

Q. You were whipped on your back? A. They made me put on my shirt when they commenced whipping me.

Q. They made you put on the shirt and commenced whipping you afterwards? A. Yes, sir.

Q. Has anybody been indicted for whipping you? A. No, sir.

Q. Nobody has been punished for it? A. No, sir.

Q. Why? A. I don't know why.

Q. Did you make any effort to punish anybody? A. No, sir.

Q. Why? A. Because, I thought it was unnecessary.

Q. Why did you think it was unnecessary? A. There were a great many people reported and it did'nt do any good and I thought it was needless for me to do it.

*Cross-Examination.*

By Mr. MERRIMON

Q. Had you been charged with stealing anything there? A. No, sir.

Q. You were never whipped in your life? A. No, sir. I had four masters and never one of them whipped me.

Q. You were never whipped before? A. Never had a lick in my life before.

Q. Did you try to kiss a white woman? A. No, sir, I did not.

Q. Didn't they charge you with that? A. That is what they whipped me for.

Q. For kissing a white woman? A. Yes, sir.

Q. You didn't do it? A. Never did.

Q. You never offered it? A. Never offered it.

Q. Never at any time at all? A. Never at any time, I never made any attempt.

JAMES H. HOLT, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCORKLE:

Q. State your age and residence? A. I am thirty eight years old and I live in Alamance county.

Q. State whether you have ever seen any persons disguised, and if so under what circumstances? A. Between the 20th and 25th of December, 1869, I think it was, I saw a party of disguised men at my office at my mill some four miles from Graham, and I heard a noise about twelve o'clock at night, which woke me up. I got up and went to the door and

heard some kind of hallooing a sort of smothered noise. I thought it was my watchman at the mill.

Q. Who was your watchman? A. His name is Wicker. I looked down to the mill which was some fifty or seventy-five yards from my office, but I didn't see any disturbance there at all, and I came around and I cast my eyes to the office where this superintendent of mine—Siddell—stayed, and I saw four men in the shadow of the house. There was a high pair of steps there, and I recognized four men standing on the other side. This was a few days before christmas. I thought that this was the superintendent, who was in the habit of drinking, on the steps there talking with somebody, and I stepped down from the door-way, and just as I stepped down I saw one man disguised in this crowd. I went back and closed the window and looked through the curtain and saw one man—that was the only one I saw.

Q. They were where Siddell stayed? A. They were before the office where he stayed, at the door.

Q. This was about twelve o'clock at night? A. About twelve.

Q. Who was Siddell—was he an employee of yours? A. Yes, sir, he was our carder in our mill.

Q. A White man or a black man? A. A White man.

Q. Do you know whether they whipped him that night? A. Nc more than what he told me when he came back.

Q. Did you hear any noise that night as if some one was being whipped? A. I heard a halloaing.

Q. What direction was it? A. I could not locate it.

Q. Did you locate it at last? A. After I saw whese these parties were I located then.

Q. Where Siddell was? A. Where he was staying.

Q. Did you state how they were disguised? A. This man I saw was in white; he had on something white and something on his head; it was a long white gown.

Q. Did you see Siddell's back the next morning? A. Yes, sir, I did.

Q. Describe how it was? A. He had been whipped. Saw the welts on his back where he had been whipped.

Q. How many times? A. I could not tell you. In fact he merely showed it to me and I did not examine it very closely to tell. I didn't care about looking at it particularly.

Q. Were there many marks on his back? A. There were a good many marks.

Q. State whether they looked as if they had been made by a recent whipping? A. Yes, sir, they had been recently done I had no doubt.

Q. Will you state whether you have ever seen any disguised persons as you have described on any other occasion? A. That is the only person I have ever seen disguised. I never saw any one else.

Q. Where is this man Siddell now? A. I think he is running a mill in the south somewhere.

Q. When did he leave the county? A. I think he left the first of March or April following.

Q. How long did he remain after he was whipped? A. He remained until that time.

*Cross-Examination.*

By Mr. MERRIMON:

Q. When was he whipped? A. December, 1869.

Q. Do you know what he was whipped for? A. No more than what he told me. He came to my room that night and woke me up. I asked him who was there, he said "Siddell." He asked me to get up. I went to the door, he remarked "I have had some visitors." I told him "yes, that I had seen them." I asked him what they had done with him, he remarked that they had carried him away over yonder. I asked him where, he said "over on Stony creek." There is a creek north about half a mile that makes into Haw river. I tried to get him to tell me what they did with him, but he would not tell. He afterwards told me—the next morning. I went around the next morning and saw him. He was complaining a good deal that night. It is only about forty feet from my

office. He stayed in, and I went around the next morning, and he showed me his back. I tried to get out of him what they had whipped him for; he said they accused him of using obscene language in the presence of ladies, and also of living in adultery with another man's wife in the neighborhood. That was one of the things, he said, they had alleged against him.

Q. They whipped him for using obscene language to ladies? A. In the presence of a lady.

Q. And living in adultery with another man's wife? A. Yes, sir, he said it was for running after this man's wife. They accused him of that.

Q. What was his age? A. He claimed to be, I think, 65 years old.

Q. Did he have any family of his own? A. Yes, sir, he has a family.

Q. What was his politics? A. He was a democrat. He always expressed himself so to me. I never saw him vote.

Q. Was he a man of bad morals? A. He was a man of bad moral character.

Q. A lewd man? A. Yes, sir, a bad man.

*Re-Direct Examination.*

By Mr. McCorkle:

Q. How many licks did he say they gave him? A. I don't know that he told me.

Q. He didn't state? A. No, sir, he didn't state that I remember.

Q. State what he said as to how he was treated when his clothes were taken off? A. I cannot state now that he said they took his clothes off. He said they raised his shirt up and whipped him on his naked back.

Q. Did he say whether they tied him or not when they whipped him? A. I don't remember, but I think he did say they tied him, though I will not be positive.

Q. How far did they take him from where he was living? A. He told me they took him over to Stony creek. I sup-

pose it is about a quarter of a mile or a little more from my office to Stony creek, but to what part they took him I do not know.

Q. Did he tell you whether it was a severe whipping? A. He said he was right badly whipped.

Q. Did he state whether he knew any of them? A. He remarked to me the next morning that he thought he knew one of them.

Q. Who was that? A. He said he thought it was Gabriel Lee, the treasurer of the North Carolina Railroad. I laughed at him, and told him the idea was perfectly ridiculous.

Q. Did he state they were disguised? A. Yes, sir, in disguise.

Q. So that he could not see their faces? A. Yes, sir.

Q. You say they charged him with having insulted a white lady? A. Yes, sir.

Q. Did he deny that? A. No, sir, he didn't deny it, but he tried to apologise to me for what he said. He said that he had had something of that kind, but for his life he had forgotten all about it.

Q. Did he say that he had not acted as these men charged him? A. He said of course that he had been in the habit of going to this house.

Q. But I am speaking about the charge of insulting a white lady—didn't he deny that he had insulted a lady? A. He said he had no recollection of it as well as I remember.

Q. Didn't he say if he had done it he had no recollection?

A. No, sir, he just remarked "If I had been guilty of anything of that sort he would have begged pardon." He was a very polite and affable kind of man.

*Re-Cross-Examination.*

By Mr. McCorkle:

Q. Who is Mr. Lee? A. He is the treasurer of the North Carolina Railroad.

Q. What sort of a man? A. He is a very nice gentleman.

Q. Is he a man of good morals? A. Yes, sir.

Q. Is he not a republican? A. I have understood he was. I have never seen him vote, but that is the understanding.

JOHN C. WILKINSON, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCorkle:

Q. Are you the proprietor of a large manufacturing establishment there? A. I have been heretofore.

Q. Do you know anything about any secret organization in the county—a political organization known as the Kuklux? A. No, sir.

Q. Have you ever seen any persons going about disguised? A. I have.

Q. Tell how many you saw, and when you saw them, and everything connected with it? A. I think it was on the 19th February, 1870, there was a company of twenty-four visited our village.

Q. Where do you reside? A. At Leasburg.

Q. What time in the night was it? A. Just about 11 o'clock, I think when they came in.

Q. Were they on foot or on horseback? A. On horseback.

The CHIEF JUSTICE. Go on, and tell all they did and said? A. They came in from the road towards Hillsboro' near opposite my house where the road goes into the Yanceyville road. In the first place they went into Squire Malone's and then they went to Mr. Hancocks 300 yards further west on the Yanceyville road, and came back and eight or ten dismounted, and came to my house and rang my bell. I asked what I could do for them. They asked me what I had been engaged in. I told them I had been engaged in manufacturing tobacco. They said that they were in the interest of the government, and wanted to know if I had paid my tax. I told him that I had paid enough to break me. They asked me about a colored man who was a preacher there who they said was engaged as an agent of some southern men to get the labor out of the country. I told them they were too late, that he had gone.

to Alabama. They then asked me if there was a colored man, a magistrate in the township. I told them there was. They asked me how he behaved, and I said that he behaved first rate. They asked me where he lived. I said he lived among the Whitlows, three quarters of a mile off. They said they wanted me to take them to his house, and that I must go with them. I told them really they must excuse me, that it was late, and I didn't want to go. They agreed to let me off, and they went down in the village, and they were gone probably an hour, and they came back the same road.

Q. You didn't go with them? A. No, sir.

Q. Did you know any of these parties? A. No, sir.

Q. How were they dressed? A. They were all disguised in white gowns with white caps over their faces.

Q. Their whole persons were concealed? A. Yes, sir.

Q. Were their horses disguised? A. No, sir.

Q. Did you recognize any of the horses? A. Not the horses at all. When they went off my porch one of them said they wanted to talk with me. I walked with him as far as the gate, and those that had got off the horses mounted them in front. It was a beautiful moon shiny night, but I could not recognize the horses or the mules. They seemed to be divided—a portion had horses, and a portion had mules.

Q. How many men came to your house? A. Eight or ten.

Q. There were twenty-four came in the first instance? A. Yes, sir.

Q. Where were those? A. They stayed out in front.

Q. You mean the smaller number came in the yard? A. Yes, sir.

Q. You say they went off, and were gone about an hour. A. The entire number.

Q. Who was this magistrate you say they asked about? A. David Johnson.

Q. It was not Sam Patterson? A. No, sir.

Q. You say that David Johnson, the magistrate, was a col-

ored man? A. Yes, sir, he was one of the township magistrates.

Q. Did you say they were going to his house? A. They said they were going.

Q. Did they have time to go to his house when you saw them? A. They went on the Hillsboro' road, and went round to his house—I didn't see them, but I suppose they did.

Q. They had been away about an hour? A. They went to the grocery there to get a drink.

Q. Did they have time to go to the house of the colored magistrate? A. That was about 12 or half-past 12 o'clock I suppose when they left the village. It was after they left the village that they went to the colored magistrate's house.

Q. [By Mr. Graham.] You don't know that they went? A. No, sir.

Q. They said they were going? A. Yes, sir.

Q. They went on the Hillsboro' road? A. Yes, sir.

Q. They went in the direction of this colored man's house? A. Yes, sir.

Q. Did you ever see them any other time? A. No, sir.

Q. This was the 19th of February a year ago, you say? A. Yes, sir.

Q. Do you know whether anybody was whipped that night? A. No one that I know of.

Q. You don't know of any outrages perpetrated by these men? A. No, sir.

Q. Did they take off the disguises when they came to your house? A. No, sir, they didn't come into the house. They came just to the front of the porch.

Q. They didn't come inside of the house? A. No, sir.

*Cross-Examination.*

By Mr. Bragg:

Q. What part of Caswell is Leasburg in? A. In the eastern portion

Q. How far from Yanceyville? A. Twenty-four miles.

Q. How far from the county line? A. About 300 yards.

Q. How far from the county line of Orange? A. Twelve miles.

Q. In what direction did these men go when they left? A. They went south—the direction in which they came.

Q. That is the only time you ever saw them? A. Yes, sir.

Q. And you know nothing of any other disguised men? A. No, sir.

Q. You don't know where they came from or where they went to? A. No, sir.

SIMON WHITE, (colored,) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCorkle:

Q. How old are you? A. I don't know.

Q. Where do you live? A. I live in Chatham.

Q. How far from the Alamance line? A. I live about three miles I guess.

Q. State whether any persons inflicted any outrages on you? A. Yes, sir.

Q. Go on and state?

Mr. MERRIMON. We object to the testimony unless the act were shown to have come from Alamance county.

Mr. McCORKLE. We will show that the outrage were committed by Aiamance men.

A. Some men came to my house and whipped me.

Q. [By the Chief Justice.] What did they do and say? A. The said they whipped me because it put me on equality with the white folks.

Q. They whipped you to put you on equality with the white folks? A. Yes, sir.

Q. What time did they come? A. It was about twelve o'clock.

Q. In the day time? A. No, sir, in the night time. They took me out in the yard and whipped me. Two took hold of me, one on each side, and held me out and they whipped me about twenty licks, I believe.

Q. Twenty licks alltogether? A. Yes, sir.

Q. State what clothing you had on. A. I had on a shirt and a pair of pants.

Q. What did they whip you with? A. Some of them had a plaited switch, some persimmon and some dogwood.

Q. Did they all whip you? A. Two held me.

Q. How did they hold you? A. They held me in this way [the witness held out his arm horizontally]. They had each arm stretched out in that way.

Q. How many whipped you? A. About half a dozen.

Q. How many licks did each one give? A. I think every man struck about ten licks apiece.

Q. How many were there that kicked you? A. There was about half a dozen of them.

Q. Where were you living? A. At William Stout's.

Q. Did he see them? A. Yes, sir.

Q. State if you knew who these persons were? A. Dan Foust was one.

Q. Where does he live? A. Alamance county.

Q. Give us the name of the other? A. John Barbee.

Q. Where does he live? A. Alamance.

Q. Name another? A. Cicero McPherson.

Q. Where does he live? A. Alamance.

Q. Do you know any of the others? A. No, I did not know any of the rest.

Q. State the nature of the whipping you got? A. I was very sore.

Q. How long? A. For two or three days.

Q. Did you state how many men there were in the crowd? A. There were about half a dozen, I think.

Q. You say half a dozen whipped you and two held you; do you mean half a dozen in all, including the two that held you? A. Yes, sir.

Q. Then there was only four that whipped you? A. Yes sir.

Q. How were they disguised? A. Some had horns. They were all dressed in white.

Q. In gowns? A. Yes, sir, all disguised in white.

Q. Were their faces covered? A. Yes, sir.

Q. You say you were badly whipped? A. Yes, sir.

Q. They whipped you over your shirt? A. Yes, sir.

Q. Did you show your back to any person? A. No, sir, I went in the house and they felt me.

Q. What time was this? A. About eleven o'clock.

Q. I mean what time in the year? A. I don't know exactly. It was about a week or two before christmas.

Q. What year—how long ago? A. About twelve months ago.

*Cross-Examination.*

By Mr. MERRIMON:

Q. What did they whip you for? A. I cannot tell exactly what.

Q. Tell as near as you can? A. They said they whipped me because I eat with white folks. Some said so, and some said they whipped me to make an equality with the white folks.

Q. Some said they whipped you for eating with white folks. Didn't they charge you with stealing? A. No, sir.

Q. Were you never charged with stealing? A. No, sir.

Q. Were you ever whipped before? A. No, sir.

Q. Were you then living in Chatham? A. Yes, sir.

Q. Were you a slave or a free man. A. I was always a free man.

Q. Born free? A. Yes, sir.

JOHN OVERMAN, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCORKLE:

Q. Where do you live? A. Chatham.

Q. What is your age? A. Twenty-three.

Q. How far do live from the Alamance line? A. About a mile and a half.

Q. Go on and state whether you have ever seen any person disguised, and all you know about it? A. Yes, sir, I saw them disguised. They came to my house.

Q. How many? A. Ten.

Q. When? A. It has been something like twelve months ago.

Q. There were ten came? A. Yes, sir, they came into the house.

Q. What did they do? A. It was about twelve o'clock at night they came there and burst my door open and come in and took me out of bed and cut off one side of my beard and one side of my hair. They took me out in the yard and ten of them struck me two licks apiece.

Q. State what clothing you had on when they took you out? A. I had on a pair of pants and a shirt.

Q. Are you a married man? A. Yes, sir.

Q. State who was in your house? A. Nobody but my wife and child.

Q. How far did they carry you from the house? A. Only in the yard.

Q. They broke your door down? A. They did not break it down, they bursted it open; they bursted the latch off.

Q. The ten came in? A. Yes, sir.

Q. State how they were disguised? A. They were disguised in white, all but two.

Q. Faces and all? A. Yes, sir, two of them had nothing on but the face.

Q. Each gave you two licks a piece? A. Yes, sir, two licks a piece.

Q. Do you know any of them? A. I know one.

Q. What was his name? A. Cicero McPherson.

Q. Where did he live? A. Alamance.

Q. How did you know him? A. I knew him by his voice. I was very well acquainted with him.

Q. How long had you known him? A. I had known him some three or four years.

Q. How far did he live from you? A. About a mile a part of the time.

*Cross-Examination.*

By Mr. MERRIMON:

Q. What did Cicero McPherson want to whip you for? A. Because of my pitching around a woman.

Q. I thought you were married? A. I was.

Q. But you "pitch" around anyhow? A. Yes, sir, like ever one else does. [Laughter.]

Q. They charged you with what—had you ravished a woman? A. No, sir.

Q. Did they charge you with keeping a woman? A. Yes, sir.

Q. She was not your wife? A. Yes, sir.

Q. You were guilty of that were you not? A. Of course I was. [Laughter.]

Q. Had you treated your wife badly at all? A. No, sir, I had not treated her badly.

Q. Had you and your wife had any difficulty? A. No, sir.

Q. None at all? A. No, sir.

Q. Your wife had no reason to suspect this thing of you? A. I reckon she did.

Q. Did she make a complaint? A. A little.

Q. Don't you know that she made a good deal of complaint? A. Yes, sir.

Q. These men knew it? A. I suppose they thought like she did.

Q. Have you quit this bad habit? A. No, sir, I have not. [Laughter.]

*Re-Direct Examination.*

By Mr. McCORKLE:

Q. You were never indicted for your conduct to this woman? A. No, sir.

Q. Did you ever indict these other parties? A. No, sir.

Q. Why? A. Because I did not think it was worth while.

They were pretty thick around there and if I undertook to do anything I thought they would come again.

Q. "They were pretty thick about there?"—what do you mean by that? A. These disguised men.

Q. You were afraid on that account? A. Yes, sir.

Q. [By Mr. Sparrow.] Don't you think you deserved all you got? A. Yes, sir. [Laughter.]

ALFRED WHITE, (colored) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCorkle:

Q. What is your age? A. About fifty-three years old.

Q. Where do you live? A. Alamance county.

Q. Go on and tell what was done to you? A. There were five disguised men come to my house and took me out and whipped me. Three of them struck me three licks apiece with a wagon whip with a leather strap attached to the end of it. They did not break the skin nor hurt me much only where it struck one my fingers.

Q. They gave you nine lashes? A. Yes, sir.

Q. State all the circumstances connected with it, what time it was they came and how they were disguised? A. They were disguised in white from the top of the head down to the shoes, in white gowns. It was about eleven o'clock at night I reckon, or between ten and eleven, in January a year ago, the latter part of the month.

Q. How did they get in your house? A. They came to the door.

Q. Did you state what time it was in the night? A. Yes, sir, about eleven o'clock. They run against it, all hands, and said, "D—n you, open this door." I was lying on the bed and got up and put on my pants, but before I got them on they run I against it several times, and finally they got a rail to burst the door open, but I went to the door and opened it, and as soon as I did they gathered me in by the arms.

Q. Did they break the door down? A. No, sir, they burst

the latch off. They did not come in, but just as I came to th door and opened it wide enough the men gathered me by th hands and pulled me out. I stepped off about fifteen or twent steps. At this time there commenced a right smart racket i the house. There was one on each side of me and two ha gone into the house. They went in the house and gathered chair. The dog had commenced barking at them and the took that chair and beat it on the floor and broke it to pieces t pester the dog who was under the bed. Then one of thes said, come back and they came out and stopped the fuss and w and we all went about a hundred yards from the house.

Q. Who was in the house? A. My wife and children Then one of my daughters who had been married and her hus band were there. He had come there that night about te minutes I suppose before these other men did. They had bee together that night I suppose—he said they had.

Q. They gave you nine lashes only, but they did'nt hurt yo much? A. Only one.

Q. Where was that? A. That was on my finger. I ha my finger down and I think there was a knot on the lash an that hit my finger.

Q. What did they whip you with? A. A wagon whip an it had a leather at the end of the lash and a knot on the end

*Cross-Examination.*

By Mr. MERRIMON:

Q. What did they whip you for? A. I don't know. The first said that I had been talking saucy to white men. I tol them that that was a mistake; that was a thing I had neve done and I could prove to the contrary, and I said that tha was not so. Then they said, "You are guilty of white women." I said, "That is not so," that they might have heard it but i was not so.

Q. They charged you with keeping a white women? A Yes, sir.

Q. And charged you with insolence to white people? A Yes, sir.

Q. I ask you if you didn't keep several white women? A. No, sir.

Q. Are you a miller? A. Yes, sir, and that is the reason why they charged me; because people of all kinds and colors came to the mill, women and men. No person could say it in my settlement. I was born and raised in Alamance county.

Q. Were you born free or were you a slave? A. I was born free.

Q. And you didn't keep this white woman? A. No, sir.

Q. What woman did they charge you with keeping? A. One of the Norwoods.

Q. What was her name? A. They didn't give any particular name; there are several of them.

Q. Are these Norwood women loose women? A. They live about three miles below.

Q. Are they lewd women—bad women? A. Some of them have had children?

Q. Any black ones? A. One I think has had.

Q. They charged you with keeping this woman? A. Yes, sir.

*Re-Direct Examination:*

By Mr McCorkle:

Q. You say that the charge was false? A. Yes, sir.

Q. And you say you were not saucy to white people? A. No, sir, I was not.

JAMES COLE, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCorkle:

Q. Where do you reside? A. Chatham.

Q. How old are you? A. About twenty-one.

Q. How far did you live from the line? A. About ten miles from the Alamance line.

Q. Go on and state whether any persons disguised ever came to you? A. I was pestered by them—I was whipped.

Q. Tell all the circumstances without my asking you questions. A. They whipped me.

Q. When was that? A. I think in 1869.

Q. What time in 1869? A. I don't remember.

Q. Was it warm weather or cold? A. It was in the fall like.

Q. The fall of 1869? A. Yes. sir, they whipprd me.

Q. But they didn't whip you until they saw you? A. No, sir.

Q. Where did they find you? A. They found me at home in bed with my wife. They came and opened the door and they came in and took me out and then two of them held out my arms by my hands and the rest of them whipped me.

Q. How many of them? A. I didn't count them, but my wife said there were ten or twelve of them.

Q. How many do you think there were? A. I reckon there were about that many.

Q. You say one man took you by each arm? A. Yes, sir.

Q. State what clothing you had on? A. I had on a woolen yarn shirt and a pair of black Kentucky jeans breeches.

Q. Where did they take you? A. There in my yard. They gave me about thirty licks aud then they told me that if they had to come back any more they would hang me.

Q. How many had you in your family? A. A wife and two children.

Q. Was your wife at home? A. Yes, sir.

Q. Did you tell what time in the night it was? A. It was between twelve and one o'clock.

Q. How were they disguised? A. They had on white pants and then a white body buttoned around here—like little boys. Then they had a face with horns on each side—here.

Q. Were the faces covered? A. All but holes for the eyes and mouth.

Q. What was the nature of the whipping—was it severe or light? A. There was one man hurt me very much—the first

man. The rest didn't hurt me so bad, but it was very severe—all of it.

Q. One man whipped you severely? A. Yes, sir.

Q. You have not told how many of them whipped you? A. I don't know how many of them there was who whipped me, I never counted it.

Q. What did they whip you with? A. Hickories.

Q. Were you badly whipped? A. Yes, sir, the first man who whipped me hurt me a good deal.

Q. How many licks did the first man give you? He gave me ten licks.

Q. How many other men whipped you? A. I don't know.

Q. You are satisfied you got as many as thirty licks? A. Yes, sir.

Q. Who were you sleeping with when they took you out of the house? A. My wife.

Q. Did you know any of the parties? A. Yes, sir.

Q. Who were they? A. Ingraham McPherson.

Q. Where did he live? A. In Alamance.

Q. Who else? A. Dan. Foust.

Q. Who else? A. George Barbee.

Q. Where did he live? A. In Alamance.

Q. Did you know any of the others? I know another—George's brother—John Barbee.

Q. Where did he live? A. In Alamance; they all lived in Alamance.

Q. Did you know any of the others? A. No; I did not know any of the balance.

*Cross-Examination.*

By Mr. Merrimon.

Q. What did they say they whipped you for? A. They said they whipped me for keeping a girl.

Q. Who was she? A. Her name was Martha Parish.

Q. Did you keep the girl? A. I did.

Q. Did that bring about a disturbance in your family? A. No, sir.

Q. Did you and your wife get along smoothly together? A. Yes, sir.

Q. Did your wife know it? A. I expect she had some idea of it; I don't know.

Q. You never heard her complain of it? A. I reckon she didn't.

Q. Did not your wife complain about it? A. No, sir, I stopped it before she had time to grumble. [Laughter.]

Q. Did she grumble a little? A. Not as I know of.

Q. Did you keep any other woman but that one? A. No, sir.

Q. How far did she live from your house? A. Some three miles or three and a half.

Q. Was she a married woman? A. No, sir.

Q. Did she have any children? A. She had one.

Q. Black or white? A. White.

Q. Was it your child? A. No, sir.

Q. Did you feed her? A. No, sir.

Q. Didn't you give her corn? A. No, sir.

Mr. BOYDEN. I think. Mr. Chief Justice, that it is improper to go into such evidence—to ask such questions as have been just propounded.

Mr. MERRIMON. We intend to impeach this witness—that is our purpose.

Mr. BOYDEN. But I would like to know how it impeaches a witness to know whether he had given a woman any corn.

WILLIAM STOUT, *a witness called on behalf of the respondent, be duly affirmed, testified as follows:*

By Mr. McCORKLE:

Q. Where do you reside. A. Chatham.

Q. What is your age? A. Fifty-nine.

Q. Do you know Simon White? A. Yes, sir, I know him.

Q. Where did he live last year? A. He lived with me.

Q. Go on and state whether you saw any persons come to

your house disguised, and if so, when it was, and all about it? A. I saw some people in 1869, 11th month.

Q. How many came? A. I suppose there was ten or twelve. I don't remember, I did not know them.

Q. What time in the night? A. Between 11 and 12.

Q. What did they do? A. They took Simon out and whipped him.

Q. State whether you heard them whipping him? A. I saw them whipping him. They called me up. I noticed they were standing in the yard right in front of the door, and they inquired if there was any boy there named White. I told them there was. They said they wanted a word with him, and that I should call him up. I called to him, and told him there was some men who wished to see him. He didn't come down. He was sleeping in the loft in the kitchen. Then he started to come down, and they caught him by the head and dragged him out, and then whipped him.

Q. State how many licks they gave? A. I don't know as I can, but I think they gave him a good many, between thirty and forty I reckon, I didn't count them.

Q. Was he badly whipped? A. He was pretty badly whipped. I noticed the marks were around in front as they struck him on the back, and the hickories went around on the sides. There was pretty severe welts.

Q. They struck him on his back, and the welts came around his body? A. Yes sir.

Q. You didn't see his back? A. No, sir.

Q. You saw them from his shirt open in front? A. Yes, sir.

Q. Are you well acquainted with the character of Simon? A. Yes, sir, I have been acquainted with him for a good many years.

Q. State what his character is? A. His character has been good as far as honesty is concerned as any man's. I recommend it as good as any man's.

Q. State how these persons were dressed? A. They were dressed in white.

Q. Gowns? A. False faces, and they had a good many things sticking out like horns in various shapes.

Q. How about their clothing—you say it was white clothing—what did they have round-about gown or what? A. I don't know what kind of material it was made of but it was just white.

Q. I ask whether it was a coat like yours or mine? A. No, sir, it was not a coat.

Q. Was it a sort of a sack? A. I think some had a sort that went around this way—a short business,—but their breeches below was white. They were all perfectly white that I saw at that time.

Q. Did you say there were ten or twelve? A. Qes, sir. Then I saw them pass again at the time they whipped Overman.

Q. Were they on horse back the first time? A. No, sir, they were walking.

Q. Did you know any of that crowd? A. I could say I knew one.

Q. Who was he? A. Little John Barbee.

Q. Where did he live? A. He lived in Alamance. I merely concluded it was him from his shape and actions, &c.

Q. State whether you saw them on any other occasion? A. Yes, sir, at the time they whipped Overman they passed there then. Then they were riding, and I think one of them was dressed in black, and I believe another one was just in his common clothes—linsey perhaps. It was cool weather.

Q. How many were there that night? A. I think some ten or twelve. I didn't count them at all.

Q. How long was it between the time when Simon was whipped, and when they whipped Overman? A. I don't know as I can tell—perhaps three or four weeks it may be.

Q. Did you see John Overman after he was whipped? A. He lived three hundred yards from my house over in a field.

I could see them go to his house. The moon was shining bright. They were riding.

Q. In what direction did they return? A. They came out the way they went by James Griffin's, and went up to my brother Joseph's, and went back towards the factory—towards Alamance.

Q. What factory in Alamance? A. Cane Creek factory—it is Willard's factory now.

Q. These are the only two times you ever saw them? A. I saw a couple come there one time after that. They didn't do anything at all. They said they wanted some wine from me, and they wanted to know if I had any work for them. I said, "What sort of work," he said, "We don't like niggers." I told him that I had some work—a right smart string of fence that I wanted to put up, but they didn't acknowledge to do that.

Q. What did they say after that? A. Nothing.

Q. State how they were disguised, and when it was? A. That was after that a little. They had disguises, and had faces on just like the others. One of them had a shirt gathered on him, and the other one had on a white short jacket.

Q. Did you state how long it was after these two occurrences you have described when you saw these two men—how many weeks, or days? A. It strikes me it was some five or six weeks after that.

Q. Has there been any punishment for any of these whippings of either Overman or White? A. No, sir.

Q. No indictment? A. No, sir, none at all.

*Cross-Examination.*

By Mr. Merrimon:

Q. What did they whip this man White for? A. They told him it was for being saucey and for eating at the table with white folks, and for talking about them.

Q. Do you know whether he had been saucey? A. I cannot tell.

Q. Did he ever eat at your table? A. Yes, sir, frequently when I have been in a particular hurry.

Q. He had been in the babit of eating at your table? A. Not regularly, but at times he ate, when I was in a great hurry.

Q. Did he sleep in the house as one of your family? A. Oh! no, he sleeps in the kitchen—in the loft by himself.

Q. He didn't sleep in the houses at all? A. Oh! yes, he slept in the kitchen, but not in the same house.

Q. Has he ever slept in the big house? A. Not that I know of.

*Re-Direct Examination.*

By Mr. McCorkle:

Q. You state that occasionally when you were in a hurry you let him eat at your table? A. Yes, sir.

Q. But that he was not in the habit of doing so? A. No, sir.

Q. Do you belong to the Society of Friends? A. Yes, sir.

HENRY HOLT, No. 2, (colored,) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCorkle:

Q. State your age and residence? A. I am thirty-three year old.

Q. Where do you live? A. Alamance county.

Q. Go on and state what you know about disguised men going about? A. I saw some this last gone fall twelve months ago.

Q. 1869? A. Yes, sir. There was a parcel of men came to my house, and callled out, and told me to come out. I told them I would as soon as I could put on my clothes. I was gone to bed, and it was about 2 o'clock in the night. I got up and was putting on my clothes, and they told me if I didn't make haste they would put 500 balls through the door. I told them, "Gentlemen, if I have done anything to put "500 balls through you will have to put them through"—just so. I said that. They burst the door open, and three

men came in with pistols drawn, and told me to make up a light. I made up a light. They told me they wanted to take me. I said they could take me for I had done nothing. They told me that they wanted me to come out doors. I told them, "All right, I would do that;" and I walked out doors. Then they told me that I had been cursing white folks. I told them I handn't, that I had never done any such thing. They said I had, and that I must not dispute white folk's words. I told them that I could not help it—if white folks said I had cursed them I could not help de nying, because I nevea had. They said I had—they knew I had. They said they had come from Greensboro' that night to settle it. I told them that I had not cursed any white people, that there was a good many people in that neighborhood knew me ever since I was born, and that I had never been in the habit of cursing anybody. At that they gathered around me. There was twelve or thirteen as well as I recollect. I didn't count them, and I think they gave me thirteen or fourteen licks. I didn't pay much attention. I don't know but more than that. Afterwards they struck me a couple of licks.

Q. State whether you were sitting up when they came in? A. No, sir, I was lying in the bed.

Q. Who with? A. With my wife.

Q. At 2 o'clock in the morning? A. Yes, sir.

Q. How many were there in your family? A. Nobody but my wife and two little children.

Q. They first fired into the door? A. No, they burst the door open as they called me and told me to come out. I told them I would as soon as I could put on my pants. They told me never to mind my clothes. I told them I was not coming out till I got my clothes on. They said if I didn't come out they would put 500 balls through the door. I said, "Gentlemen, if I have done anything to put 500 balls through the door put them right through," and with that they burst the door right open. Three of them ran in with pistols drawn, and told me to make a light, and told me to do it quick. I made up a light.

They said they come from Greensboro', and they had to go to Greensboro' that night, and said they were there by authority to settle that—that I had beeu cursing white folks, and they wanted me to settle it. I said, "All right." They told me to step out in the yard. I walked out and they walked out right after me; one of them walked right in front and the others behind, and they talked to me and said I had been cursing white folks. I told them I had not. They said I had and I told them I had not; it was not my habit to curse at all, and if anybody said I had been cursing white folks it was not true, and then they said I must not dispute white folks. I said if white folks had said I had cursed them I must dispute them, for it was not so. One of them said I must not talk so; if I did he would shoot me, and one of them ran up and shot a pistol off right over my shoulder by the side of my head. By that time they had gathered around me and said, "Be still" and ordered me to hush talking. One of them said, "Take off your shirt." I did take it off. Then they marched up around me. I could not tell how many licks they struck me, but they struck twelve or fourteen licks. I don't know whether all struck me. I did not pay much attention to it.

Q. Did you state how many there were? A. Twelve or thirteen.

Q. State how they were disguised? A. They had on white disguises that went clean down to their shoes near the ground. I just saw their shoes. They had white over their heads and horns and black strips on each side, with tassels on the horns.

Q. What did they do to your wife? A. They struck her a couple of licks, she said. I did not see them.

Q. Did you see any marks about her? A. No, sir, they did not make any marks on her.

Q. You don't know what they struck her with? A. No, sir, nothing more than a hickory. I did not see it.

Q. What part of the county do you live in? A. About nine miles south of Graham.

Q. Towards the Chatham line? A. Yes, sir.

Q. How far from Greensboro'? A. Thirty or thirty-five miles.

Q. They told you they had come from Greensboro' that night? A. Yes, sir.

Q. And they had to go back that night? A. Yes, sir.

Q. They said they had orders to settle with you? A. Yes, sir.

Q. And charged you with being impudent? A. Yes, sir.

Q. And you told them that it was not so? A. Yes, sir.

Q. Has there been any prosecution about this matter—any indictment? A. None at all.

Q. Why? A. I was rather afraid to do it myself because I was afraid I could not do anything with them and I knew they would come and pester me if I undertook to prosecute them and did not have them punished.

Q. You were afraid to do it? A. Yes, sir.

Q. Did you know any of them? A. There was one man I knew.

Q. Who was he? A. Michael Thompson.

Q. In what county did he live in? A. In Alamance county.

*Cross-Examination.*

By Mr. Merrimon:

Q. What else did they charge you with besides cursing white people? A. Nothing.

Q. Didn't they charge you with stealing? A. No, sir.

Q. Have you ever been charged with stealing? A. No, sir.

Q. Never in your life? A. No, sir.

Q. Had you ever been whipped before in your life? A. Not since I was small.

Q. Did your master never whip you? A. No, sir.

Q. Did he never charge you with stealing? A. No, sir.

Q. Had you ever quarrelled with anybody in the neighborhood? A. No, sir, with nobody.

Q. Had never quarrelled with anybody? A. No, sir.

Q. And never did anything wrong in your life? A. No, sir.

Q. How did you know Thompson? A. I knew him by his

voice. They told me they had come from Greensboro'. Before they left I went back in the house and when they started I went out after them and followed along behind and I knew Mr. Thompson's voice. He was a young man I had always been acquainted with all his life and I knew his voice.

JOSEPH McADAMS, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCORKLE:

Q. State your age and residenee? A. I am forty-nine years old.

Q. Where do you live? A. In Alamance county.

Q. Go on and state what you know about any secret political organizations in that county?

Mr. MERRIMON. State only what you know about it.

A. I don't know much about it there was a parcel of men put a coffin at my door.

Mr. MERRIMON. State what you know.

Mr. GRAHAM. Mr. Chief Justice, we object to this testimony. There has been a great deal of testimony introduced which we might have objected to but here is a proposition as I understand it to prove by this man that a coffin was placed at his door. What has this to do with the question whether there was insurrection in the county of Alamance. It appears to me that it has no relation whatever with the issue that is now pending.

Mr. McCORKLE. Mr. Chief Justice, it shows the lawless character of the people. The purpose evidently of carrying a coffin and placing it before this witness's house was to intimidate him. It shows that these men were guilty of forcible trespass and we expect to show by the next witness that this coffin was made by a member of the Kuklux organization.

Mr. GRAHAM. It seems to me that the counsel may give proof of any other crime or offence in the county whether it was a forcible trespass or a nuisance if this testimony is admissible. It has no bearing whatever upon the question of whether

there was an insurrection, they might just as well be allowed to prove that a carcas of a dead animal or some equally offensive thing had been placed in this witness's yard to annoy him.

Mr. SMITH. Mr. Chief Justice, what are we enquiring into except a series of outrages perpetrated in that county? Is it not an outrage to put a coffin at a man's door? It is equivalent to a threat of death, it may be of the man, and if that is not a criminal act which with other outrages goes to show the necessity of declaring the county in a state of insurrection, I don't know. It tends to show that life was not secure—that the civil authorities were unable to protect the lives of its citizens, and that being the condition of affairs the statute authorized the governor to declare the county in a state of insurrection. This act which we propose to prove is a threat or menace of death, as I understand it and no other construction can be put upon it. At all events, it is a matter for this court to consider.

Mr. GRAHAM. Then I understand the gentleman abandons the idea of proving an insurrection.

Mr. SMITH. No, sir, we do not.

The CHIEF JTSTICE. The presiding officer is of the opinion that the evidence is competent upon the ground that it is a fact which may have a bearing upon the issue before the court. How far it tends to prove a state of things which justified the proclamation is a matter for further consideration. But it is a fact which the presiding officer deems relevant.

Q. State what you found at the door, and when it was? A. It was a regular made coffin.

Q. [By the Chief Justice.] Of the usual size? A. Yes, sir, it was set up against my door, and before the door.

Q. Was it the front door or the back door? A. It was the door next the kitchen, the north door. There is a pass-way and this was set in the pass-way, and one end was sitting against the door. I heard a noise when the coffin was put against the door.

Q. What time of night was it? A. About eleven o'clock.

Q. Had you retired? A. Yes, sir, I was in bed.

Q. Where did you hear the noise, at the north end or where? A. It was at the north door. The bed was right near the north door.

Q. You heard the noise where you found the coffin? A. Yes, sir, the dogs attacked some of them, and I immediately afterwards got up and commenced opening the door, and the coffin commenced looking in; I did not know what at was; I thought it was a plank or something, at first. I opened the door a little further, and took my foot and kicked it off and I think the top fell off.

Q. Was there anything in it? A. No, sir.

Q. Any writing on it? A. Yes, sir.

Q. State what the writing was? A. Lengthwise there was these words, "Hold your tongue, or this will be your home." Crosswise it said, "Alive to-day, but dead to-morrow. K. K. K!" I then went out and hitched my dog, and there were four or five guns fired about sixty yards apparently from the house.

Q. The same night? A. Yes, sir.

Q. How long after you heard this noise did you hear the firing? A Immediately after I went out.

Q. Did any person tell you who did it? A. No, sir.

Q. When did you say this was? A. The 20th April, 1869.

Q. What is your politics? A. I have been a republican.

*Cross-Examination.*

By Mr. Merrimon:

Q. You belong to the league? A. No, sir.

Q. Did you ever? A. No, sir.

Q. Do you belong to the Heroes of America? No, sir.

Q. [By Mr. McCorkle] Are you a post master? A. No, sir.

The hour of two o'clock and forty minutes having arrived the court adjourned until to-morrow at eleven o'clock, a. m.

## TWENTY-EIGHTH DAY.

SENATE CHAMBER, March 3, 1871.

The COURT met at eleven o'clock, pursuant to adjournment, Hon. Richmond M. Pearson, Chief Justice of the Supreme Court, in the chair.

The proceedings were opened by proclamation made in due form by the doorkeeper.

The CLERK proceeded to call the roll of senators when the following gentlemen were found to be present:

Messrs. Adams, Barnett, Battle, Beasley, Bellamy, Brogden, Brown, Council, Cowles, Crowell, Currie, Dargan. Edwards, Eppes, Flemming, Flythe, Gilmer, Graham, of Orange, Graham, of Alamance, Hawkins, Hyman, Jones, King, Latham, Ledbetter, Lehman, Lovo, Mauney, McClammy, McCotter, Merrimon, Moore, Morehead, Murphy, Norment, Olds, Price, Robbins, of Davidson, Robbins, of Rowan, Skinner, Speed, Troy, Waddell, Warren, Whiteside and Worth—46.

Senator JONES moved that the reading of the journal of the proceedings of yesterday be dispensed with.

The CHIEF JUSTICE put the question on the motion of Senator Jones, and it was decided in the affirmative.

Mr. McCORKLE. We depart, Mr. Chief Justice, from the usual rule this morning for the purpose of examining a witness from Wilkes. He is clerk of the superior court, and it is important that he should be at home.

GEORGE H. BROWN, *a witness called on behalf of the respondent, being duly sworn testified as follows:*

By Mr. McCORKLE.

Q. Give your age and residence if you please? A. My age is twenty-eight years. I live in Wilkesboro', Wilkes county, North Carolina.

Q. What is your business? A. I am clerk of the superior court for Wilkes county.

Q. State whether you are acquainted with the general character of George W. Kirk? A. I am during the years 1864 and 1865. I knew nothing of him before or since.

Q. State what means you had for ascertaining his character during those years? A. I served under him as an officer in his command during the late war.

Q. State what command he held? A. He was colonel of the third regiment of North Carolina mounted infantry United States troops.

Q. State whether they were regularly received troops of the federal government? A. Yes, sir, they were.

Q. State what his character was?

Mr. GRAHAM. You are not to speak of what you think of it. Do you know what his general reputation was among those who knew him.

Mr. McCORKLE. He understands that I suppose.

Mr. GRAHAM. I don't know whether he does or not.

Mr. MERRIMON. We want to see whether he does or not.

Q. State what that character was?

Mr. MERRIMON. Stop, we have a right to know whether the witness is qualified.

Mr. McCORKLE. He qualified, by stating that he knows his general character.

The CHIEF JUSTICE. I think the witness has qualified himself. He says he has been acquainted with him for two years.

The WITNESS. Yes, sir, that is what I stated.

Q. State what his character was? A. I state that his general character in the service in the command that he belonged to was that of an honest and high minded man, and a brave and a daring soldier.

Q. Will you state how he treated the prisoners?

Mr. GRAHAM. I don't know, Mr. Chief Justice, that they can go into any thing more than general reputation. I understand a character to be general report and reputation,

and we are not expected to come prepared to contest the matter of his particular acts.

The CHIEF JUSTICE. The presiding officer has difficulty in recollecting whether the prosecution did not examine as to some of the acts of Colonel Kirk.

Mr. GRAMAM. I think not, sir. We examined Mr. Reeves, and we examined Colonel Cocke and Mr. Young, but it was in regard to general reputation, according to my recollection of it. I think we went into nothing else, and that testimony that was offered as to particular acts was expressly excluded.

The CHIEF JUSTICE. It depends altogether upon that.

Mr. McCORKLE. They endeavored to show, Mr. Chief Justice, by some of their witnesses, that this man was a plunderer and a freebooter.

Mr. GRAHAM. That that was his general reputation.

Mr. McCORKLE. And that a large part of his command was composed of men who had deserted from the confederate service and had gone over, and they were regarded more in the light of plunderers in that section of the country than anything else. For the purpose of rebutting that evidence, we propose showing whether he was the plunderer and freebooter as he has been represented to be by the counsel on the other side.

Mr. GRAHAM. Our evidence was general evidence. Colonel Cocke, I recollect, said on that subject merely that his general reputation was that of a plunderer and freebooter, but we went into no particular acts as the robbing a man's house.

Mr. McCORKLE. The gentlemen proved, I think, by one of their witnesses, that one of the subordinates of Colonel Kirk—a man by the name of Wilson, it occurs to me now—came to his house with a command of four or five men and stole a horse and something else.

Mr. GRAHAM. We were speaking of Kirk's character, and I remember nothing but what I have stated.

The CHIEF JUSTICE. The presiding officer does not think that you can go into anything but general reputation. You need not confine it to honesty or activity in service, but you may show how it was as to his general character as to being a savage or brutal man or otherwise.

Q. I will ask you what his character was as a humane man.

The CHIEF JUSTICE. Had he the general reputation of being a savage, brutal man, or what?

Q. [By Mr. Graham.] His general reputation—do you know it? A. His general reputation was that of being a kind and humane commanding officer to his soldiers and to the prisoners captured by him.

By the CHIEF JUSTICE:

Q. Was his reputation confined to one side, or did it go to both sides? A. I was on one side, and I don't know what it was on the other side.

Q. Which side were you on? A. I was in the United States service.

By Mr. McCORKLE [resuming]:

Q. State what position you occupied in Colonel Kirk's command, so that the court may know your means of ascertaining his reputation? A. The first position I held was that of a sergeant major of the regiment; after that I was promoted to be first lieutenant, and have several times acted as adjutant of the regiment.

Q. Whilst in the latter post I will ask you if your duties threw you much with the commanding officer? A. Yes, sir, I was with him very frequently—very often.

*Cross-Examination.*

By Mr. GRAHAM.

Q. You say you do not know what his reputation was outside of his own regiment? A. No, sir, I do not.

Q. Were you in both armies during the war? A. Yes, sir.

Q. Which were you in first? A. I was in the confederate army first, sir.

Q. Did you desert that service? A. I did, sir.

Q. Went over to join his forces? A. Yes, sir.

Q. In Tennessee? A. Yes, sir.

Q. And the reputation you speak of was the reputation that he had with his regiment? A. With his regiment and with the troops and citizens of that part of the country. Not confined to the regiment.

Q. Do you mean in North Carolina or Tennessee? A. In Tennessee and some portions of North Carolina.

Q. You don't know then what reputation he had among the citizens of North Carolina? A. I do not, sir.

Q. [By the Chief Justice.] When you say some portions of North Carolina what do you mean? A. I mean the bordering portions of North Carolina adjoining Tennessee—but outside of that I don't know.

Q. When did you go to him from the confederate service? A. I went in the early part of 1864.

Q. How long did you continue? A. I continued until regularly mustered out of the service.

Q. Until the end of the war? A. Yes, sir.

Q. Were you in Asheville North Carolina during the service? A. Yes, sir.

Q. Did you have any difficulty there in regard to a trunk of somebody's that fell into your possession? A. No, sir.

Q. Where was it then? A. Not any where, sir.

Q. Had no difficulty any where? A. No, sir.

Q. No imputation that you had appropriated to your own use the trunk of another person? A. No, sir, not that I know of.

Mr. SMITH. I submit whether that is the proper mode of examining a witness. To ask him whether he is guilty of such an act of that kind or not, may be admissible under certain circumstances but it is not proper to ask him the false reports of the country.

Mr. GRAHAM. I think the rule goes to the extent that I have stated. I don't know how the fact is, but I will state that the question is not asked with any wantonness. I is suggested to me.

Mr. SMITH. I submit the question is not proper because it is opening new inquiries, and the matter may be utterly untrue. I don't think the witness can be asked that question.

Mr. GRAHAM. I think the exact question decided in our supreme court was whether a man had not been charged in the state of Georgia with embezelement or with theft.

Mr. BOYDEN. No, sir; I appeared in that case and recollect it well. In that case a witness was asked if he had been guilty of the crime of perjury in Georgia. That was the question and the court said they had a right to ask it.

The CHIEF JUSTICE. The presiding officer is familiar with the case. He does not see any reason why you should'nt ask the question, because the witness is supposed to be able to explain and his answer will conclusively. And the counsel cannot contradict him because it is collateral matter.

Mr. GRAHAM. That, sir, is a subsequent question. I propose to put this one now.

[By Mr. GRAHAM, resuming.]

Q. I ask you whether during the war, during that service, at some place or other, the trunk of some porson did not come into your possession and that you compromised the matter by paying for it? A. No, sir, I didn't do any such thing.

Q. No difficulty of that kind occurred? A. No, sir.

Q. Nothing of the sort? A. No, sir.

Q. Have you been living in North Carolina since the conclusion of peace or in Tennessee part of the time? A. I have been in North Carolina all the time.

Q. You returned there immediately from service? A. Yes, sir.

Q. And at what time were you discharged? A. I was discharged in the month of August, 1865.

Q. Were you with Kirk in this service in Alamance and Caswell? A. No, sir.

*Re-direct examination.*

By Mr. McCORKLE:

Q. You have been asked if you deserted the confederate

service. You have a right to explain under what circumstances you left, if you desire—how came you to join them. A. I was conscripted and forced into it. That is how I came to join it and I didn't think there was any obligation binding upon me to stay with the army.

Q. Then you deserted and thought it your duty to join the union cause, did you?

Mr. GRAHAM. He didn't say that.

Q. Well, I will ask you if you did do it? A. Yes, sir.

Q. You remained in the service until August, 1865? A. Yes, sir.

Q. [By the Chief Justice.] Did you say you were a native of Wilkes county? A. Yes, sir. I was born and raised in Wilkes county.

*Re-cross examination.*

By Mr. GRAHAM:

Q. When did you go into the Confederate army? A. It was in 1862—the latter part of 1862.

Q. How long did you stay there? A. I didn't stay—I don't recollect the exact time. It was but a short while.

Q. Whose company did you go in—what regiment? A. It was the 15th North Carolina regiment I was assigned to, from the camp outside of Raleigh. I don't recollect the camp.

Q. Where did you go to? A. I went to the army of Northern Virginia.

Q. How long did you stay there? A. It was but a short time.

Q. Two or three months or six months? A. I don't recollect the exact time.

Q. Was it as much as six months? A. I don't think it was.

Q. Were you in any battles there? A. No, sir, I was not in any battle there.

Q. Who was your colonel? A. I think it was a man by the name of Barry.

Q. You went in 1862, do you say? A. The latter part of 1862.

Q. You didn't go with Kirk until 1864, where were you in the meantime? A. I was in Wilkes county a part of the time, and in North Carolina most of the time, from one place to another.

GREEN LANKFORD, *a witness called on behalf of the respondent being duly sworn testified as follows:*

By Mr. McCorkle:

Q. What is your name? A. Green Lankford.

Q. What is your age? A. If I live till the middle of June, I will be seventy-two.

Q. Where do you reside? A. I reside at Jim Holt's factory.

Q. What county? A. Alamance.

Q. Will you state what you know about seeing disguised persons—when it was and all about it? A. Yes, sir, I can tell you what I know about it. There were seven come to my house and dragged me and my wife out of bed one night and took me out in the woods in my night clothes and stripped my clothes off and struck me fifteen licks.

Q. State what kind of dress you had on when they whipped you? A. I had my drawers and shirt.

Q. Your night dress—night clothes? A. Yes, sir.

Q. State how they got you out of the house? A. Why, they broke the lock, sir.

Q. Broke the door? A. Broke the lock, they did not break the door open.

Q. What time was this? A. I reckon it has been about twelve months as well as I can recollect.

Q. About February, 1870, then? A. Yes, sir.

Q. What time of the night did they come to your house? A. It was about one, as near as I could get at it.

Q. State how they were dressed? A. Well, they had on something like white, yes—white clothing, one was a little streaked and had horns on or something like that and the others had snouts to their months.

Q. How far did this dress extend? A. About down along there I reckon [indicating to the ankles].

Q. You say you were taken out of your bed by these men? A. Yes, sir, I was certainly.

Q. Did you recognize any of them? A. No, sir.

Q. How far did they carry you from the house? A. As nigh as I could guess, about three hundred yards, I reckon.

Q. Did I understand you to say they carried Mrs. Lankford also? A. They dragged her out of the bed, but they never carried her.

Q. Did they offer any other indignities to her except that? A. No, sir, not that I know of.

Q. Will you state whether you were injured? A. Well, you can judge as you please, gentlemen—I was hit fifteen licks on the naked skin.

Q. We cannot well judge ourselves? A. Well, I cannot tell any more. You know how whipping hurts I reckon [laughter].

Q. You can state whether it was painful or not? A. Of course it was.

Q. How long did it remain so? A. Some four, five or six days.

Q. Will you state what instruments you were whipped with? A. Yes, sir, it was cedar.

Q. Cedar switches? A. Yes, sir, cedar switches.

Q. Did they break the skin? A. Yes, sir, in one place.

Q. You were suffering pain you say for five or six days? A. Yes, sir.

*Cross-Examination.*

By Mr. Merrimon:

Q. What did they whip you for? A. Well, that you will have to find out, my friend.

Q. Didn't they tell you? A. No, I don't know.

Q. Didn't they tell you—didn't you hear them say? A. They said my wife had it done, but I don't know whether that was so or not.

Q. What did they tell you your wife had said to them why they should do it? A. They didn't say any more than to say she had it done.

Q. How did you and your wife live together? A. Well, as good as anybody I reckon in the world.

Q. Were you peaceable? A. Yes.

Q. Quiet? A. Yes, sir, never had a bit of fuss in our lives.

Q. Never in the world? A. No, sir.

Q. Didn't you load your gun, and tell your wife you were going to shoot her? A. No, sir.

Q. I will put you on your guard? A. I don't care if you do. You cannot scare me—I ain't to be scared by such.

Q. But you are liable to the law if you don't tell the truth? A. I am telling the truth.

Q. You didn't have any dispute with your wife? A. No, sir. I have had two wives, and I am just as clear as you are [Laughter.]

Q. What I do is not the question. Have you from time to time had quarrels with your wife? A. No.

Q. Didn'nt you load your gun and threaten to shoot her? A. Maybe you was one of them. [Laughter.]

Q. I ask you if you did not load your gun and threaten to shoot your wife? A. No, I did not.

Q. You say you did not? A. I never did.

Q. You never had any dispute with your wife? A. No, I never had any dispute only some little arguments at times.

Q. You have had arguments with her? A. Little sort of short words spoken to one another, and that was all. We had no others.

Q. You lived very happy together? A. Yes, sir.

The CHIEF JUSTICE. You can name some particular time that you suppose or allege he handled a gun, or threatened his wife.

The WITNESS. I want him to tell how he got up about the gun business. [Laughter.]

Q. It is none of your business how we got it. A. My friend you might get hurt yourself maybe.

Q. When you get into a controversy with your wife you are not as offensive towards her as you are towards me, are you—you don't get out of humor? A. No, sir, she don't ask me such lies.

*Re-Direct-Examination.*

By Mr. McCorkle:

Q. You say you and your wife lived pleasantly together. A. Yes, sir.

Q. You say the same crowd that carried you off and whipped you, dragged your wife out of bed? A. Yes, str.

By the Chief Justice:

Q. I do not understand what you said they whipped you for? A. They said my wife had it done.

Q. Well, what for? They didn't say for what—I don't know for what.

JAMES C. RINGSTAFF, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCorkle:

Q. Where do you live, and what is your age? A. I live in Alamance, will be 36 years old the 17th day of July, 1871.

Q. Go on and state your connection with the Kuklux—what you know about it without my asking questions? A. The 9th of October, 1869, there were eight or nine men came to my house about 11 o'clock in the night. After hallooing at the door a time they pushed it open and came in and told me that they had understood I had been going to Gappins'—they asked me my name first.

Q. You can go on? A. They came in and asked me my name, and when I told them my name they told me that I was the man they were looking for, and that they had understood I had been going to Gappin's, and they came around to tell me that if they heard of my being there any more there were going to take me out and hang me to a tree or limb, I am not positive

which. They repeated it I think once or twice probably, and that was all that was said.

Q. State who was in your house at that time? A. My wife and child and my brother William Ringstaff.

Q. What is your brother's name? A. William.

Q. You say this was at 11 o'clock at night? A. About 11 I suppose. I had no time piece.

Q. Describe how they were dressed? A. They were dressed in white—white robes with false faces. Some of them I think had little horns—probably witn red.

Q. They had horns? A. Some of them—not all I reckon.

Q. Was there any other time that they visited you? A. About the 22d of December the same year there was some persons came there at night and opened the door and carried out some few things, and left notice that if I didn't leave the county in twenty days I "would pass as if it was from life to death."

Q. They came in December? A. Yes, sir, about the 22d or 23d of December, 1869, was the second visit.

Q. What was it they did—they left a notice? A. Yes, sir, they opened the door and carried out some things and lett this notice there. It was written on a piece of paper and also on the door—that if I didn't leave the county in twenty days I "would pass as if from life to death."

Q. What did they carry out? A. They carried out some bed clothing and a chest. I don't know whether there was anything else or not.

Q. And left it out of doors? A. Yes, sir.

Q. Was anything else carried off? A. There was nothing carried off from the place. I don't know whether anything else was carried out in the yard.

Q. Anything about a gun? A. Yes, sir, I forgot that there was a gun carried off.

Q. Where did you find that gun afterwards? A. I found the pieces over at Mr. William McVey's, or some pieces.

Q. How did you recognize it as your gun? A. Well, it was a small shot gun. I suppose it was the same. I would not

swear positively that it was or was not, but I supposed it was.

Q. This was carried off? A. Yes, sir, it was gone.

Q. It was there before you left? A. Yes, sir.

Q. And the next place you found it was at Mr. William McVey's? A. Yes, sir.

Q. That is two visits they paid you? A. Yes, sir.

Q. Did they make any other visit? A. Yes, sir, about the 8th January, 1870, some persons were there again, and at night I suppose. I was there all day and went home the next morning, and the visit had been paid—they carried out some things also that night.

Q. [By Mr. Graham.] How do know what was done if you were not there? A. Well, I know what took place. I knew that there were several things that had been carried out from the time I left there until I went back, and also some writing stating that if that house was not cleared of all persons in three days one log would not be on another.

Q. If that house was not cleaned in three days what would take place? A. If that house was not cleaned in three days one log would not stay on another, or would not lay on another.

Q. State whether you remained? A. I did not. I left the second or third day after that, and was gone about two months and a half, I think.

Q. Where did you go to? A. I went out to McDowell ounty.

Q. Then you left the county for two or three months. A. About two months and a half, I think.

Q. State whether you recognized any of those parties that you saw there? A. I thought I knew some of them at the time I saw them.

Q. Who do you think they were? A. I think one of them was Daniel Foust, and I thought another was George Barbee, and another I thought was Elijah Foushee. I would not say positively that it was the man.

Q. What part of Alamance county did you live in? A. About ten miles south of Graham.

Q. That was in the direction of Chatham, then, was it? A. Yes, sir.

Q. State whether any of those perties have ever been prosecuted for what occurred in your house? A. Well, they were in part for what had taken place there, and at some other places the same night—they took somebody else.

Q. I ask if they were ever indicted in court? A. There was a warrant gotten out for these three men I named before a magistrate, and they were bound over to court. The court came on, and I don't know whatever went with it.

Q. Were you ever before the grand jury? A. No, sir, I was not.

Q. You never heard of any prosecution, then, at the court in Graham about it? A. I did not.

*Cross-Examination.*

By Mr. Merrimon:

Q. What did they treat you that way for? A. They told me that they had understood I had been going to Gappins', and they came around to tell me if ever they heard of my being there any more they were going to do so and so.

Q. Who is Gappins? A. I don't know, for they didn't call any given name. They said "Gappins," and there wasn't but one Gappins living in the settlement.

Q. Who were they? A. Polly Gappins.

Q. Did she keep a brothel there? A. What, sir?

Q. A lewd house—a whore house. Do you understand that? A. Some said she did.

Q. What do *you* say? A. Well, I suppose it wasn't a very decent house.

Q. Don't you know that she kept a notorious brothel? A. I do not.

Q. Did you visit that place? A. I have been there.

Q. How often? A. I don't know.

Q. Many times? A. I have been there several times.

Q. Very many times? A. I can't say how many; I live near there, and have been there several times.

Q. What did you go there for? A. I have been there for different things.

Q. Did you go there by night, or day, or both? A. I suppose I have been there in the day and night too.

Q. What did you go for when you went? A. Well, I don't know that I can say.

Q. Did you go to see these women? A. Well, it may be that I went there to see some of them.

Q. Did you have intercourse with them from time to time? Just out with it; there is no use in concealing it.

Mr. BOYDEN. You can answer it or not, as you please. You are not obliged to answer it.

The CHIEF JUSTICE. Your not answering it will be about the same thing as if you said you had. You had better tell it.

Q. What about it? A. I suppose I was guilty of one woman that lived at that place.

Q. Were you understood to be the father of the child of one of them? A. I don't know. I cannot say that I was sir.

Q. Did they chargo you with it? A. They did not.

Q. Did the girl say it was your child? A. She didn't that I ever heard.

Q. Did you recognize it as yours? A. She didn't that I know of.

Q. How much of a family did you say you had—a wife and child? A. A wife and child.

Q. How long was this visiting kept up at Polly Gappins? A. I don't know, sir, how long.

Q. Well, a year? A. I suppose it was.

Q. Two years? A. Likely it was.

Q. Three. A. Likely it was.

Q. How far did Polly Gappins live from you? A. Well' it was half or three-quarters of a mile—somewhere about that.

Q. Was she on your land? A. No, sir.

Q. Did you have any land of your own? A. Yes, sir.

Q. Where did you get that gun that you had? A. The gun I had at my house that was carried off?

Q. Yes. A. My father left it there sometime before that, it was not my gun.

Q. Did you get a gun from any other source? A. I did not sir—neven owned a gun in my life, and never had used this one.

Q. Did you attend court after you had these men bound over? A. I was there, sir.

Q. You went to court? A. Yes, sir.

Q. Did you see the solicitor? A. I saw him.

Q. Why didn't he send you before the grand jury? A. I didn't ask him. I don't know.

*Re-direct examination.*

By Mr. McCorkle:

Q. Did you try to get the solicitor to indict these parties? A. I did not.

Q. Why? A. Well, I don't know that I can answer the question why.

Q. Were you bound over as a witness by the magistrate? A. Yes, sir.

Q. You attended? A. Yes, sir.

Q. You say you were never called before the grand jury? A. Never was, sir.

Q. Can you give any reason? Do you know any reason why you were not sent before them? A. I do not know that I can.

Q. What court was that which you attended—the first immediately after this outrage on you? A. The superior court in December, I think it was sometime in December—I don't know exactly.

Q. Which December—1869, or 1870? A. 1869, the court was.

Q. I understood you to say that they visited you in January. That was after court? A. Yes, sir.

Q. The second time was also after court? A. Yes, sir.

service. You have a right to explain under what circumstances you left, if you desire—how came you to join them. A. I was conscripted and forced into it. That is how I came to join it and I didn't think there was any obligation binding upon me to stay with the army.

Q. Then you deserted and thought it your duty to join the union cause, did you?

Mr. GRAHAM. He didn't say that.

Q. Well, I will ask you if you did do it? A. Yes, sir.

Q. You remained in the service until August, 1865? A. Yes, sir.

Q. [By the Chief Justice.] Did you say you were a native of Wilkes county? A. Yes, sir. I was born and raised in Wilkes county.

*Re-cross examination.*

By Mr. GRAHAM:

Q. When did you go into the Confederate army? A. It was in 1862—the latter part of 1862.

Q. How long did you stay there? A. I didn't stay—I don't recollect the exact time. It was but a short while.

Q. Whose company did you go in—what regiment? A. It was the 15th North Carolina regiment I was assigned to, from the camp outside of Raleigh. I don't recollect the camp.

Q. Where did you go to? A. I went to the army of Northern Virginia.

Q. How long did you stay there? A. It was but a short time.

Q. Two or three months or six months? A. I don't recollect the exact time.

Q. Was it as much as six months? A. I don't think it was.

Q. Were you in any battles there? A. No, sir, I was not in any battle there.

Q. Who was your colonel? A. I think it was a man by the name of Barry.

Q. You went in 1862, do you say? A. The latter part of 1862.

Q. You didn't go with Kirk until 1864, where were you in the meantime? A. I was in Wilkes county a part of the time, and in North Carolina most of the time, from one place to another.

GREEN LANKFORD, *a witness called on behalf of the respondent being duly sworn testified as follows:*

By Mr. McCorkle:

Q. What is your name? A. Green Lankford.

Q. What is your age? A. If I live till the middle of June, I will be seventy-two.

Q. Where do you reside? A. I reside at Jim Holt's factory.

Q. What county? A. Alamance.

Q. Will you state what you know about seeing disguised persons—when it was and all about it? A. Yes, sir, I can tell you what I know about it. There were seven come to my house and dragged me and my wife out of bed one night and took me out in the woods in my night clothes and stripped my clothes off and struck me fifteen licks.

Q. State what kind of dress you had on when they whipped you? A. I had my drawers and shirt.

Q. Your night dress—night clothes? A. Yes, sir.

Q. State how they got you out of the house? A. Why, they broke the lock, sir.

Q. Broke the door? A. Broke the lock, they did not break the door open.

Q. What time was this? A. I reckon it has been about twelve months as well as I can recollect.

Q. About February, 1870, then? A. Yes, sir.

Q. What time of the night did they come to your house? A. It was about one, as near as I could get at it.

Q. State how they were dressed? A. Well, they had on something like white, yes—white clothing, one was a little streaked and had horns on or something like that and the others had snouts to their months.

Q. How far did this dress extend? A. About down along there I reckon [indicating to the ankles].

Q. You say you were taken out of your bed by these men? A. Yes, sir, I was certainly.

Q. Did you recognize any of them? A. No, sir.

Q. How far did they carry you from the house? A. As nigh as I could guess, about three hundred yards, I reckon.

Q. Did I understand you to say they carried Mrs. Lankford also? A. They dragged her out of the bed, but they never carried her.

Q. Did they offer any other indignities to her except that? A. No, sir, not that I know of.

Q. Will you state whether you were injured? A. Well, you can judge as you please, gentlemen—I was hit fifteen licks on the naked skin.

Q. We cannot well judge ourselves? A. Well, I cannot tell any more. You know how whipping hurts I reckon [laughter].

Q. You can state whether it was painful or not? A. Of course it was.

Q. How long did it remain so? A. Some four, five or six days.

Q. Will you state what instruments you were whipped with? A. Yes, sir, it was cedar.

Q. Cedar switches? A. Yes, sir, cedar switches.

Q. Did they break the skin? A. Yes, sir, in one place.

Q. You were suffering pain you say for five or six days? A. Yes, sir.

*Cross-Examination.*

By Mr. Merrimon:

Q. What did they whip you for? A. Well, that you will have to find out, my friend.

Q. Didn't they tell you? A. No, I don't know.

Q. Didn't they tell you—didn't you hear them say? A. They said my wife had it done, but I don't know whether that was so or not.

Q. What did they tell you your wife had said to them why they should do it? A. They didn't say any more than to say she had it done.

Q. How did you and your wife live together? A. Well, as good as anybody I reckon in the world.

Q. Were you peaceable? A. Yes.

Q. Quiet? A. Yes, sir, never had a bit of fuss in our lives.

Q. Never in the world? A. No, sir.

Q. Didn't you load your gun, and tell your wife you were going to shoot her? A. No, sir.

Q. I will put you on your guard? A. I don't care if you do. You cannot scare me—I ain't to be scared by such.

Q. But you are liable to the law if you don't tell the truth? A. I am telling the truth.

Q. You didn't have any dispute with your wife? A. No, sir. I have had two wives, and I am just as clear as you are [Laughter.]

Q. What I do is not the question. Have you from time to time had quarrels with your wife? A. No.

Q. Didn'nt you load your gun and threaten to shoot her? A. Maybe you was one of them. [Laughter.]

Q. I ask you if you did not load your gun and threaten to shoot your wife? A. No, I did not.

Q. You say you did not? A. I never did.

Q. You never had any dispute with your wife? A. No, I never had any dispute only some little arguments at times.

Q. You have had arguments with her? A. Little sort of short words spoken to one another, and that was all. We had no others.

Q. You lived very happy together? A. Yes, sir.

The CHIEF JUSTICE. You can name some particular time that you suppose or allege he handled a gun, or threatened his wife.

The WITNESS. I want him to tell how he got up about the gun business. [Laughter.]

Q. It is none of your business how we got it. A. My friend you might get hurt yourself maybe.

Q. When you get into a controversy with your wife you are not as offensive towards her as you are towards me, are you—you don't get out of humor? A. No, sir, she don't ask me such lies.

*Re-Direct-Examination.*

By Mr. McCorkle:

Q. You say you and your wife lived pleasantly together. A. Yes, sir.

Q. You say the same crowd that carried you off and whipped you, dragged your wife out of bed? A. Yes, str.

By the Chief Justice:

Q. I do not understand what you said they whipped you for? A. They said my wife had it done.

Q. Well, what for? They didn't say for what—I don't know for what.

JAMES C. RINGSTAFF, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCorkle:

Q. Where do you live, and what is your age? A. I live in Alamance, will be 36 years old the 17th day of July, 1871.

Q. Go on and state your connection with the Kuklux—what you know about it without my asking questions? A. The 9th of October, 1869, there were eight or nine men came to my house about 11 o'clock in the night. After hallooing at the door a time they pushed it open and came in and told me that they had understood I had been going to Gappins'—they asked me my name first.

Q. You can go on? A. They came in and asked me my name, and when I told them my name they told me that I was the man they were looking for, and that they had understood I had been going to Gappin's, and they came around to tell me that if they heard of my being there any more there were going to take me out and hang me to a tree or limb, I am not positive

which. They repeated it I think once or twice probably, and that was all that was said.

Q. State who was in your house at that time? A. My wife and child and my brother William Ringstaff.

Q. What is your brother's name? A. William.

Q. You say this was at 11 o'clock at night? A. About 11 I suppose. I had no time piece.

Q. Describe how they were dressed? A. They were dressed in white—white robes with false faces. Some of them I think had little horns—probably witn red.

Q. They had horns? A. Some of them—not all I reckon.

Q. Was there any other time that they visited you? A. About the 22d of December the same year there was some persons came there at night and opened the door and carried out some few things, and left notice that if I didn't leave the county in twenty days I "would pass as if it was from life to death."

Q. They came in December? A. Yes, sir, about the 22d or 23d of December, 1869, was the second visit.

Q. What was it they did—they left a notice? A. Yes, sir, they opened the door and carried out some things and left this notice there. It was written on a piece of paper and also on the door—that if I didn't leave the county in twenty days I "would pass as if from life to death."

Q. What did they carry out? A. They carried out some bed clothing and a chest. I don't know whether there was anything else or not.

Q. And left it out of doors? A. Yes, sir.

Q. Was anything else carried off? A. There was nothing carried off from the place. I don't know whether anything else was carried out in the yard.

Q. Anything about a gun? A. Yes, sir, I forgot that there was a gun carried off.

Q. Where did you find that gun afterwards? A. I found the pieces over at Mr. William McVey's, or some pieces.

Q. How did you recognize it as your gun? A. Well, it was a small shot gun. I suppose it was the same. I would not

swear positively that it was or was not, but I supposed it was.

Q. This was carried off? A. Yes, sir, it was gone.

Q. It was there before you left? A. Yes, sir.

Q. And the next place you found it was at Mr. William McVey's? A. Yes, sir.

Q. That is two visits they paid you? A. Yes, sir.

Q. Did they make any other visit? A. Yes, sir, about the 8th January, 1870, some persons were there again, and at night I suppose. I was there all day and went home the next morning, and the visit had been paid—they carried out some things also that night.

Q. [By Mr. Graham.] How do know what was done if you were not there? A. Well, I know what took place. I knew that there were several things that had been carried out from the time I left there until I went back, and also some writing stating that if that house was not cleared of all persons in three days one log would not be on another.

Q. If that house was not cleaned in three days what would take place? A. If that house was not cleaned in three days one log would not stay on another, or would not lay on another.

Q. State whether you remained? A. I did not. I left the second or third day after that, and was gone about two months and a half, I think.

Q. Where did you go to? A. I went out to McDowell ounty.

Q. Then you left the county for two or three months. A. About two months and a half, I think.

Q. State whether you recognized any of those parties that you saw there? A. I thought I knew some of them at the time I saw them.

Q. Who do you think they were? A. I think one of them was Daniel Foust, and I thought another was George Barbee, and another I thought was Elijah Foushee. I would not say positively that it was the man.

Q. What part of Alamance county did you live in? A. About ten miles south of Graham.

Q. That was in the direction of Chatham, then, was it? A. Yes, sir.

Q. State whether any of those perties have ever been prosecuted for what occurred in your house? A. Well, they were in part for what had taken place there, and at some other places the same night—they took somebody else.

Q. I ask if they were ever indicted in court? A. There was a warrant gotten out for these three men I named before a magistrate, and they were bound over to court. The court came on, and I don't know whatever went with it.

Q. Were you ever before the grand jury? A. No, sir, I was not.

Q. You never heard of any prosecution, then, at the court in Graham about it? A. I did not.

*Cross-Examination.*

By Mr. Merrimon:

Q. What did they treat you that way for? A. They told me that they had understood I had been going to Gappins', and they came around to tell me if ever they heard of my being there any more they were going to do so and so.

Q. Who is Gappins? A. I don't know, for they didn't eall any given name. They said "Gappins," and there wasn't but one Gappins living in the settlement.

Q. Who were they? A. Polly Gappins.

Q. Did she keep a brothel there? A. What, sir?

Q. A lewd house—a whore house. Do you understand that? A. Some said she did.

Q. What do *you* say? A. Well, I suppose it wasn't a very decent house.

Q. Don't you know that she kept a notorious brothel? A. I do not.

Q. Did you visit that place? A. I have been there.

Q. How often? A. I don't know.

Q. Many times? A. I have been there several times.

Q. Very many times? A. I can't say how many; I live near there, and have been there several times.

Q. What did you go there for? A. I have been there for different things.

Q. Did you go there by night, or day, or both? A. I suppose I have been there in the day and night too.

Q. What did you go for when you went? A. Well, I don't know that I can say.

Q. Did you go to see these women? A. Well, it may be that I went there to see some of them.

Q. Did you have intercourse with them from time to time? Just out with it; there is no use in concealing it.

Mr. BOYDEN. You can answer it or not, as you please. You are not obliged to answer it.

The CHIEF JUSTICE. Your not answering it will be about the same thing as if you said you had. You had better tell it.

Q. What about it? A. I suppose I was guilty of one woman that lived at that place.

Q. Were you understood to be the father of the child of one of them? A. I don't know. I cannot say that I was sir.

Q. Did they chargo you with it? A. They did not.

Q. Did the girl say it was your child? A. She didn't that I ever heard.

Q. Did you recognize it as yours? A. She didn't that I know of.

Q. How much of a family did you say you had—a wife and child? A. A wife and child.

Q. How long was this visiting kept up at Polly Gappins? A. I don't know, sir, how long.

Q. Well, a year? A. I suppose it was.

Q. Two years? A. Likely it was.

Q. Three. A. Likely it was.

Q. How far did Polly Gappins live from you? A. Well' it was half or three-quarters of a mile—somewhere about that.

Q. Was she on your land? A. No, sir.

Q. Did you have any land of your own? A. Yes, sir.

Q. Where did you get that gun that you had? A. The gun I had at my house that was carried off?

Q. Yes. A. My father left it there sometime before that, it was not my gun.

Q. Did you get a gun from any other source? A. I did not sir—neven owned a gun in my life, and never had used this one.

Q. Did you attend court after you had these men bound over? A. I was there, sir.

Q. You went to court? A. Yes, sir.

Q. Did you see the solicitor? A. I saw him.

Q. Why didn't he send you before the grand jury? A. I didn't ask him. I don't know.

*Re-direct examination.*

By Mr. McCorkle:

Q. Did you try to get the solicitor to indict these parties? A. I did not.

Q. Why? A. Well, I don't know that I can answer the question why.

Q. Were you bound over as a witness by the magistrate? A. Yes, sir.

Q. You attended? A. Yes, sir.

Q. You say you were never called before the grand jury? A. Never was, sir.

Q. Can you give any reason? Do you know any reason why you were not sent before them? A. I do not know that I can.

Q. What court was that which you attended—the first immediately after this outrage on you? A. The superior court in December, I think it was sometime in December—I don't know exactly.

Q. Which December—1869, or 1870? A. 1869, the court was.

Q. I understood you to say that they visited you in January. That was after court? A. Yes, sir.

Q. The second time was also after court? A. Yes, sir.

Q. Did you attend any other court? A. No, sir, never did.

Q. Why? A. Well, at the time I was bound over to court I just had orders to attend there at a certain court I did attend, and after that I never had any orders to attend at any other; and for that reason I never did it.

WILLIAM McVEY, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCORKLE:

Q. What is your age and residence? A. Fifty-three years old the 10th of this month.

Q. Where do you live? A. I live in Alamance county.

Q. How far from Graham? A. Twelve miles south of Graham.

Q. How far from Ringstaff, who was just now examined? A. Something like—well, I reckon a matter not far from a quarter; inside of that.

Q. Will you go on and state under what circumstances you ever saw any disguised persons, and all about it. A. Well, I never saw any only at the time they came to notify me to tell him to leave, that is all I saw of them.

Q. When was that? A. I forget. It was when they were at his house though,—the time that they came to my house.

Q. Tell us as near as you can? A. Well, that was about the time he told me.

Q. How many came to your house? A. There were eight.

Q. What time in the night? A. I reckon something like midnight. I couldn't recollect—I didn't have any time piece.

Q. Had you gone to bed? A. Yes, sir.

Q. State how they waked you up? A. They waked me up by halloaing at the door to get up and make a light. They said, "Get up quick." I told them to hold on, I would be there as quick as possible. They came in and asked if Ringstaff was there. I told them he wasn't. They asked if I had seen him. I told them he was there that evening. They asked where he was. I told them he had gone along. They

lit a light and looked over the house a little. They told me then if he didn't leave in twenty days they would kill him—they didn't say they would kill him, though; they said if he didn't leave in twenty days "he would be dead! dead! dead!" They charged me—"old man—to behave myself." I told them I would be sure to do that. They used me like a man.

Q. They used you like a man ought to be used? A. Yes, sir, treated me very well.

Q. State what they did looking about the house. A. They just looked for him, I suppose.

Q. Where did they look? A. They looked in bed—they didn't pay much attention no way. They sort of lamned the light around the house. They went out and sort of smashed something on a tree——

Q. State what kind of dresses they had on. A. They had some spotted and some white; some had on horns; kept shaking their heads about—sort of frightened me, you know, a little. It looked curious any way to a body waking up from sleep. They went out and they threw something that I thought struck the house. They went off, and Christie's wife was at my house—Ringstaff's. She said she guessed that was his gun they broke. She didn't know though. They put the light out and went off; and when they threw the gun against the house, some of them halloaed "quit; quit; quit that?"

Q. You say they threw the gun against your house? A. Yes, sir.

Q. When did you find the gun? A. I found it that night. Some of the women went out. I didn't go out; I was a little dubious.

Q. They treated you well? A. Oh, treated me like a gentleman—didn't do me any harm.

Q. In what condition did you find the gun? A. I found it broken; the breech was broken off, and the barrel was bent a little.

Q. Did you know the gun? A. I knew it was a gun he had at his house.

Q. That Ringstaff had at his house? A. Yes, sir, I had shot it several times.

Q. Did you ever see them before or afterwards? A. They came to my house a good while before that, but they never said anything to me. They just passed through the yard and called me up; I saw it was them.

Q. When was that? A. That was a good while before this. I can't recollect when it was. It was a good while before any of them came.

Q. State how long before, as near as you can—two or three months? A. Yes, sir, I reckon it was that much.

Q. How many of them were there? A. I think there were some four or five, something like that.

Q. What time of the night? A. I reckon that was about midnight.

Q. Were you abed? A. Yes, sir.

Q. How did they wake you up? A. They halloed—had a sort of little way of blowing, "Huish! huish! huish!"—[laughter.]—and I'm a man that never sleeps much. I heard the dogs, and I got up and saw them. I told them to come in, and they said no, they had not time. They said they were from Richmond and other places. They carried on with me powerful and then we had a heap of fun together.

Q. Did you belong to them? A. Oh, no, sir; they never hurt me, though, you know.

Q. Treated you like a gentleman, you say? Treated you well? A. Oh, yes. You can't hurt a man if he will behave and do right. They hain't got nothing against me, you know.

Q. How were they disguised? A. Some of them wore white and had on horns, and some of them wore black and had gowns on—their heads looked as high—away up here, a scaring thing, a mighty scaring thing to a body waking up.

Q. Did you know any of them? A. No, sir, I did not want to know. I just wanted to get them off as quick as possible. I told them, well they asked me——

Q. [By Mr. Boyden.] Asked you what? A. They asked

me if I told stories; I told them sometimes, but little funny things. They all broke out and they said, "Huish! huish! huish! 'm 'm 'm!" [laughter] and away the went.

Q. I will ask you what you wanted to get rid of them for if they treated you so well. You said you wanted them to leave. Why did you want them to do it? A. I was afraid maybe they might get to talking something, and I might say something and they might whip me or something of that sort.

*Cross-Examination waived.*

JOHN A. MOORE, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BOYDEN:

Q. Dr. Moore, where do you reside? A. At Company Shops.

Q. How long have resided there? A. Eleven years.

Q. A practicing phyiscian? A. I am, sir.

Q. A member of the last Legislature? A. I was, sir.

Q. Of which party? A. The conservative party.

Q. State if you knew a man by the name of Corliss? A. I did, sir.

Q. What was his first name? A. I don't know.

Q. Was he a white man? A. He was a white man?

Q. What was his business there? A. He was a school teacher.

Q. Was he a southern man or a northern man? A. He was from New Jersey, I think.

Q. He was teaching school then? A. Yes, sir.

Q. Where were you the night he was said to have been whipped? A. I was at my house, sir.

Q. State in your own way all that took place. A. Well, I got home from Raleigh at eleven o'clock on Friday night, if my memory serves me correctly, and about midnight I was waked up with considerable noise. I thought it was at my barn. I jumped out of bed and ran to the front door and heard some person halloa, and I looked out through the glass and I

saw some objects passing my front gate. It was dark, but I could discern something white. They were just passing my front gate and I opened the front door. I stepped out on the piazza, and I could just get a glimpse of them between my house and the railroad. They were going very rapidly. I went back and slipped on my clothes and my shoes and walked down towards the railroad, but they were out of hearing. I didn't know which way they had gone. I heard Mrs. Corliss making considerable lamentation, and when I heard her she was at Mr. Meader's room.—he was also teaching a school there. But she went on from there in the direction of Mr. Worth's—I don't know what went with her. I saw nothing more of any of the parties till the next morning I went down to dress the wounds.

Q. Tell what you found? A. I found him pretty tolerably badly whipped.

Q. Describe it? A. With a gash just over—I am not certain whether it was his right or left eye. I closed that with a sticking plaster and I dressed his back. His back was not cut, ut I could see the bloody water oozing through in sev eral places, and he was complaining some of his lame leg.

Q. He was a lame man? A. Yes, sir, he had had a white swelling I think, in time. I left for Raleigh on Sunday night and I saw nothing more of him.

Q. Did you see Mrs. Corliss? A. Yes, sir.

Q. Saw her the next morning? A. Yes, sir.

Q. What was her condition? A. Well, I don't think—she told me ——

Mr. GRAHAM. You need not speak of her conversation.

Mr. SMITH. You can state what she said as to her condition.

A. Well, she said that she had been hit.

Q. But what did she say was the matter with her? A. I think she was complaining of her head. I don't remember about that. She complained of her being struck over the head, or something.

Mr. GRAHAM. It is not proper to relate her conversation.

Q. Did you see the mark where she had been struck? A. No, sir, I didn't see any mark.

Q. Could you tell how these persons in white were disguised? A. No, sir, I just got the glimpse of them.

Q. Were they in white? A. They were in white. I could see that.

Q. How many do you think there were? A. I only know from what he said.

Q. I want to know, from your own judgment. A. I cannot tell about that.

Q. Have you no idea? A. Well, no sir, they were just passing, and I got a glimpse of them. I couldn't tell. He told me there were five—that is all I know.

Q. No, but I want your judgment. Do you think there were as many as five? A. I think there were.

Q. You say it was about what time in the night? A. It was about midnight, I judge.

Q. Did you see them carrying Corliss off—did they have him when they were moving off? A. They had Corliss—I heard him halloa. I couldn't see him.

Q. They were taking him? A. Yes, sir. I heard him halloo, but I couldn't see him—it was dark.

Q. You heard him in the crowd? A. Yes, sir.

Q. What became of Corliss? A. Well, on Monday, I understood, I don't know——

Mr. GRAHAM. Speak only of your knowledge.

A. I saw him on the night he left. I went home two weeks afterwards, he was just getting on the train to go to Greensboro', as I got off.

Q. You never have been there to see him since? A. No, sir.

Q. You did not state when you went to the legislature. Tell us just what year it was. You said it was in January?

A. Well, it was in March, 1868, I think, I am not certain as to that.

Q. Was it the last session of the legislature? A. March, 1869, I think, yes, sir.

Q. Tell us what you know about the secret organizations in the county of Alamance. A. Well, I know but very little about that. I was a member of the White Brotherhood myself, but I did not know that there were twenty-five men belonged to it until the revelations that were made this last summer. I never attended but one meeting.

Q. Where did you join? A. I joined in a shoe shop about twenty yards from my house.

Q. Who was present? A. Well, there was a young man by the name of Dixon who tried to initiate me, and I think Dr. Tarpley, and I don't remember—there might have been two or three more, I forget who they were.

Q. Was there a man by the name of Long? A. Yes, sir, I think he was.

Q. Which Long was that? A. It was John Long. He was the man that went after me under the pretext that his wife was sick—wanted me to go and see his wife.

Q. Where were you when he came after you? A. I was at home.

Q. I was thinking you were over at Worth's. A. Well, yes, sir, I went over to Mr. Worth's to see his child; that is so.

Q. And he made the excuse there? A. Yes, sir, he went to my house and then followed me over to Mr. Worth's.

Q. Tell us all you know about Shoffner—about an attempt to murder him. Give us your history of it—all you know about it—in your own way. A. Well, sir, I was in Graham on one occasion. I went down to Graham to see Colonel Bill Albright's child.

Q. Which Bill? A. The clerk.

Q. "Red-Eyed," or the other? A. The clerk—not "Red-eyed."

Q. The clerk of the court? Yes, sir.

Q. When was it now? Tell the time as near as you can. A. I think it was about the first of January—probaly about the 8th of January, 1870. I had hitched my horse near the court house and had called into Mr. Hunter's to warm—it was cold—and on my way to my horse, James E. Boyd called me—he was there on Mr. Bason's corner—and asked me if I had heard the news. I asked him what news.

Mr. GRAHAM. I submit whether it is competent to go into conversations with these persons.

Mr. BOYDEN. Boyd was one of the Kuklux.

Mr. GRAHAM. You haven't proved it.

Mr. BOYDEN. We have proved it by somebody—not by this witness.

Q. Was James Boyd one of the Kuklux? Did he belong? A. I suppose so; I never saw him in a meeting. I did not see him initiated.

Q. He recognized you and you him when you met him, as members? A. Yes, sir; if it had'nt been so, he would not have approached me on that subject, I suppose.

Q. Go on. A. He asked me if I had heard the news. I asked him what news, and his reply was that "They are going to "suspend Shoffner's writ of *habeas corpus* to-night." I asked him who and what he meant, and he said the Kuklux. I remarked to him that it would never do, it must be stopped; and I told him if he would tell me where to go to, that I would go and stop it. He told me they were to meet at Gilbraith's bridge.

Q. Who was coming there? A. The Kuklux. I don't know that he mentioned anybody's name. That was just the conversation that occurred between us. He told me he was going to Greensboro' to be out of the county, and I told him I would go and stop it. I went on home and went to the bridge ——

Q. What sort of a night was it? A. Well, it was a very cold night.

Q. How far did you have to go to get to the bridge? A.

Well, it was five miles to the bridge, but when I got to the bridge the thought struck me that I might get into difficulty about it myself. I had been directed by some person—I don't know who, Mr. Boyd, I guess, who said Jim Bradshaw would be a good man to assist me in this matter.

Q. Was he a Kuklux? A. I suppose he was, sir.

Q. Go on. A. And I concluded I would go to his house and get him to go to the bridge, and that I would go on to my father's. I went to his house about dusk, and I halloed and he came out to the gate. I told him I was cold, and so I told him ——

The CHIEF JUSTICE. Go on and tell all that took place.

Q. State what took place between you. A. I told him what they were going to do, and that I wanted him to go the bridge, and he told me he would.

Q. [By the Chief Justice.] You told him you wanted to stop it? A. Yes, sir, that was my business.

Q. Go on. A. Well, I don't know that we had any more conversation about it. He told me he would go to the bridge and would have the matter stopped.

Q. Go on and state how many you saw. A. Well, I met four men. I didn't know either of them. I met them in a lane ——

Q. How far from the bridge? A. I suppose it is some five miles.

Q. Which way? Beyond the bridge? A. Beyond the bridge. They were coming from the direction of Newland's factory.

Q. What county is Newland's factory in? A. It is in the lower part of Alamance county.

Q. Near what county line?—near Orange? A. No. sir—well, it is some four miles, I judge, from the Orange line, and about the same distance—well, it is about six miles from the Chatham line. It is rather in the southeast corner of the county.

Q. Go on. A. Well, I met them in the road, and judging from the direction they were going I thought that that was their business, I stopped them and had a conversation with them.

Q. Tell all that took place. A. I asked them if they were going to the bridge and they told me they were. I remarked to them that it was an unnecessary ride, that Mr. Shoffner was not at home; aud one of them remarked that he had ridden some considerable distance, I don't remember—thirty or forty miles to engage in it, and he didn't like to disappointed.

Q. Go on. He had come some thirty or forty miles to engage in what? A. In assassinating Shoffner, I suppose that was what they meant, but they agreed if he was not at home there was no use in going. But I went on and they went on in the direction of the bridge.

Q. There was some other conversation about their wanting to see it through, and about your deceiving them was there not? A. Yes, one of them remarked that if I had deceived them it wouldn't be well for me—that they might get after me, or something to that effect.

Q. Were they disguised? A. No, sir.

Q. What sort of a night was it? A. It was a dark night, just getting dark. They were strangers to me. I did not know them.

Q. You have stated, I believe, that there were seven or eight of them at the bridge?

Mr. GRAHAM. He is your own witness. I object to your leading him.

Q. I want to refresh you recollection as to the number? A. Well, sir, I may be mistaken now as to the number. I am not positive about that. There were some four or six of them—I am not certain how many.

Q. State their size, whether they were large or small men, or some large and some small? A. Well, they were of different sizes, if my recollection seves me correctly. I don't think any of them were large men.

Q. You were then a member of the legislature? A. I was then a member of the legislature.

Q. You understood the business they were on? A. I understood the business they were on.

Q You went to stop them? A. Yes, sir.

Q. You say you did not inquire their names? A. No, sir, I did not.

Q. Did you try to find out who they were? A. I did not try to find out who they were.

Q. Tell us why? A. I did not desire to know in the first place. I went there to stop it. I succeeded in doing it and I didn't want to know their names.

Q. Why not? A. I thought maybe I might get into difficulties about it.

Q. You were afraid to endeavor to find out?

Mr. GRAHAM. He has not said that.

The CHIEF JUSTICE. I think in regard to a witness who admits that he belongs to this organization, the counsel for the respondent have a right to cross-examine him, though he is their own witness.

Mr. BOYDEN. He has substantially answered the question. He didn't want to get into difficulty—he was afraid.

The WITNESS. I cannot say I was afraid.

Q. What do you mean by saying you did not know but what you might get into difficulties? A. I did not know but I might be called upon to testify against them on some occasion and I didn't want to do it.

Q. That is the reason. Was it one of the principles of this organization that you were not to testify against people? A. No, sir, I did not know anything about the principles of it; I only got a portion of the obligation.

Q. State the portion of it that you got? A. I only got mixed portions of it—the man didn't know it.

Q. State the mixed portions of it that you did get? A. I could not tell to save my live I could not tell you two words that were in the obligation.

Q. You can tell the substance of the obligations you took? A. Well, I suppose it is just like all other secret organizations.

Q. No. I want to know if you cannot tell the substance of the portions of the oath that you took? The idea—I don't care about the words? A. Well, I suppose that I was to keep the secrets.

Q. State the penalty if you didn't keep the secrets? A. I never heard any penalty.

Q. They didn't tell you what the penalty was? A. No, sir.

Q. You were to keep the secrets—and what else? A. Well I don't remember.

Q. You cannot remember anything about that? A. No, sir, it was sort of botched up. The man that administered the obligation didn't know it himself.

Q. I ask you if you didn't know this was a part of their object? A. What?

Q. To prevent the colored people from enjoying their political rights? A. No, sir.

Q. You didn't know of that? A. No, sir, there never was any such thing said to me,

Q. I ask you if this was not one of the objects: If stealing had taken place or white persons had been insulted by colored people or there were any acts in violation of the law, and the courts did not punish them—whether it was not your business to punish them? A. I understood that was the purpose of it. My understanding was that it was nothing more than a vigilance committee and that when the courts did not punish offenders against the law or violators of the peace of the county, they were to take the matter in hand. That was my understanding.

Q. And punish them? A. Yes, sir.

Q. What do you know about the school house being burnt of your own knowledge? A. I do not know anything in the world about it only what Mr. Worth told me the next morning.

Q. No matter about that, you know there was a school house that was burnt there? A. Yes, sir.

Q. Meader had been teaching there? A. Yes, sir, Meader was living or rooming in one of my houses.

Q. You have said something heretofore in your examination about other persons in this matter when you were going to see these parties at the bridge? A. Well, that was a question and a point that I desired to explain before the supreme court last summer.

Q. Just explain it now? A. I asked Judge Merrimon to give me permission which was denied.

Q. You can explain it now fully? A. Well, when I rode up to Mr. Badshaw's house there were three men in his lot, and when he came out to the gate I told him that I must warm, and he made a remark to me that he had some friends there fox hunting. I got down and went into the house and as I went on back to the gate, I told him what my business was as we stood at the gate. He mentioned the names of Mr. Strudwick and Mr. Hedgepeth.

Q. What Strudwick? A. Fred. Strudwick.

Q. Who else? A. Mr. Hedgepeth—I don't know what his name was.

Q. He did not name the other? A. No, sir, he did not name the other and I don't know him. I saw them but I had no conversation with them.

Q. Was it the same Strudwick who is a member of the house now? A. Yes, sir.

Q. Where does he live? A. He lived in Hillsboro.

Q. How far was this from this bridge? A. That was about five or six miles.

Q. When you left did anybody go with you and meet these men? A. Go with me?

Q. You went on you say five miles further? A. Yes, sir, I went on six miles further to my father's.

Q. Did anybody go with you from that place? A. No, sir, nobody went with me from that place.

Q. You left those men there, did you? A. Yes, sir, I left

those men there. He told me they were fox hunting, that is all I know.

Q. Did you tell Bradshaw anything about Shoffner's having left? A. Yes; sir, I told him that he was gone.

Q. How did you find out he was gone. You started, as I understand you, to head off these men—to keep them from killing Shoffner? A. I started to head the men off, to keep them from going there.

Q. Upon that expedition? A. Yes, sir, I did know he was in Greensborough that day, but I did not know but he would come back home.

Q. You could not know that? A. I could not know that.

Q. And you went there to prevent that execution? A. Yes, sir, that was my object, of course I had no other purpose.

Q. What sort of a school was Corliss teaching? A. He was teaching a colored school.

Q. Do you know what the practice was when they were about to punish one of those men that had committed a crime that the court had not taken hold of—whether the principle was to sentence him in one camp, and then another camp to punish him? A. Well, sir, I don't know of it of my own knowledge, that is what I understood.

Q. Was that the talk among the men that joined? A. Well, that was the talk.

Q. One camp sentences and another carries it into execution? A. Yes, sir.

Q. I ask you if this is not it: The camp where the party resides never carries the sentence into execution, but it is done by a camp off at a distance? A. I do not know, sir.

Q. Have you not understood that? A. I do not remember that I ever did.

Q. You say that Doctor Tarpley was with you when you were initiated—he was one of the order? A. Yes, sir, he was one of them.

Q. Was he one of the men that Kirk arrested? A. No, sir,

he was taken with a bench warrant and brought down here last summer.

Q. He had not been arrested until he was brought here? A. No, sir?

Q. How old a man was he? A. He was about sixty-eight years old, I judge.

Q. Was he a member of the church, a leading member? A. Yes, sir, and as worthy a man as there is in Alamance county.

Q. He was a member of this association? A. Yes, sir.

Q. Have you seen anybody's back that has been whipped? A. I only saw Mr. Corliss's.

Q. I mean any other one? A. No, sir.

Q. You never saw anybody disguised only that time? A. No, sir, not that I remember of.

Q. [By the Chief Justice]. You don't say that these parties were disguised? A. No, sir, these parties that I met were not disguised.

Mr. BOYDEN. He says that these other men that he met were not disguised. I referred to the men that went after Corliss as being disguised.

The WITNESS. No, sir, these other men were not disguised.

Q. I ask you if they did not have their disguises with them? A. I don't know about that and I did not see them. All had on overcoats. I could not tell.

Q. Was it a very cold night? A. A very cold night.

Q. Who was this Shoffner that you spoke of? A. He was a senator.

Q. What has become of him? A. I suppose he went to Indiana.

Q. How long before he left after this news got out? A. I don't suppose he left before this news ever got out. He came back here to the legislature and staid until after the adjournment of the legislature and went home, fixed up his business and left.

Q. You did not know that he heard of it? A. No, sir, I don't suppose that he ever did.

Q. If he did you don't know of it. A. No, sir.

Q. Didn't you and Captain Euliss talk about it any? A. No, sir, I never spoke to Captain Euliss about it in my life.

Q. Do you know whether Euliss belonged? A. No, sir, I do not.

Q. Give us the names of as many members as you can whom you know from either seeing them or talking with them—who belonged to this society. Name over all you know. A. Well, sir, I don't remember that I ever saw any one join but myself.

Q. But the talk you have had with them, when they admitted that they belonged. Mention the names of all those that you can. A. Well, sir, I know of John Trollinger. He was chief of the camp to which I was affixed.

Q. Who was chief of the county? A. Jacob Long; that is, I understand so. I never spoke to him on the subject in my life. John S. Dixon—he was the man that initiated me; and I know of a Mr. Redding and a Mr. Thornton at the Shops; and I know of Greene Andrews, and I cannot call to my mind—

Q. Just take time, and think them over. A. I know of a man by the name of Faucett that belongs to it.

Q. What is Mr. Faucett's first name? A. George. Those are all I can call to my mind right now that belonged to my camp.

Q. Tell us all you know about the "Invincible Empire," initiated here in Raleigh.

Mr. GRAHAM. I object, sir.

A. There was no such organization in Alamance county, and never has been.

Q. Do you know anything about such an organization there? A. No, sir, there never has been a member of it nor a camp of the kind in the county.

Q. How do you ascertain that there never has been any in the county. You mean within your own knowledge? A. And I am satisfied that there never has been or there would have been some revelations last summer.

Mr. MERRIMON. I object to any reference to that.

Q. Do you know anything about there being a "Constitutional Union Guard" in there? A. Yes, sir.

Q. Can you tell us how many camps there were in the county? A. I cannot sir.

Q. You heard it stated among the men that belonged? A. I heard it stated here——

Q. No, I mean there. A. No, sir, I never did. All the information I got I got before the supreme court here.

Q. [Mr. [Merrimon.] Don't state anything unless you know it? A. I don't know it of my own knowledge.

Q. Perhaps I can remind you. Lucia H. Murray—do you know whether he belonged? A. I do not, sir.

Q. George S. Rogers? A. I do not, sir.

Q. William Bingham? A. I do not, sir.

Q. Alexander Wilson? A. I do not, of my own knowledge.

Q. Or hearing them talk about it? A. No, sir, I never did.

Q. Or any member? A. No, sir.

Q. Walter Thornton, you mentioned him? A. Yes, sir.

Q. William Redding, you mentioned him. Thomas M. Holt? A. I don't know anything about him.

Q. George Andrews? A. Green Andews I mentioned him.

Q. Do you know anything about George? A. No, sir.

Q. John Andrews? A. I don't know anything about him.

Q. Frederick Blanchard? A. I dont know anything about him.

Q. Adolphus G. Moore? A. I don't know anything about him.

Q. John B. Roberson? A. Well, John Roberson did belong to it.

Q. James N. Holt? A. ——

Q. William Tate? A. I don't know about him.

Q. Alexander Patten? A. J. Patton, I don't know him.

Q. Jesse Gant? A. I don't know him. I know he didn't belong.

Q. Lemuel Whitsell? A. I don't know about him.

Q. Josiah Thompson? A. I don't know him.

Q. Sidney Steele? A. I don't know about him.

Q. George Johnson? A. I don't know him, sir.

Q. William Patten? A. Is he the one that was arrested?

Q. Yes, it is said so here, [referring to the articles of impeachment.] A. No, sir. I don't know him, I am not acquainted with the gentleman.

Q. Joseph Wright? I don't know that he belongs to it.

Q. Benjamin McAdams? A. I don't know that he belongs to it.

Q. Ruffin Andrews? A. I don't know of my own knowledge that he belongs to it.

Q Did you hear any of the men say so? A. No, sir, I only heard him accusad of it.

Q. Thomas Ray? A. I don't know him.

Q. Joseph Prichard? A. I don't know him.

Q, Loften Tear? A. I don't know that he belongs to it.

Q. Joseph Thompson? A. I don't know him, sir.

Q. Henry Cooke? A. I don't know him.

Q. William Andrews? A. No, sir, I don't know that he ——

Q. M. N. Shaw? A. I don't know him, sir.

Q. John Long? A. I know he belongs to it.

Q. James H. Anderson? A. I don't that he belongs to it.

Q. Joseph Gibson? A. I don't know him, sir.

Q. Henry Prichard? A. I don't know him.

Q. Joseph Nelson? A. Well, I know he don't belong to it.

Q. James R. Murphy, jr., do you know him? A. Yes, sir. He don't belong to it.

Q. William Kirpatrick? A. Well, I think he is a member. That is my impression.

Q. Thomas Gray? A. He belonged to it.

Q. Jefferson Younger? A. He belonged to it I think.

Q. Frank Mebane? A. I don't know about him.

Q. Clement Curtis? A. Well, he belonged to it I think.

Q. John W. McAdams? A. I don't know about him.

Q. William Moore? A. He belonged to it.

Q. William Clendenen? A. He did not belong to it.

Q. D. W. Weedon? A. I don't know about him.

Q. Daniel Moses? A. I don't know about him.

Q. P. Thompson? A. I don't know him.

Q. David Moore? A. I don't know about him.

Q. Monroe Fowler? A. I don't know about him.

Q. Henry C. Hurdle? A. It rather runs in my mind that he belongs to it.

Q. William Whitsett? A. I don't know about him.

Q. Albert Murray? A. I don't know about him.

Q. J. G. Moore? A. He does not belong to it.

Q. Joseph Kirkpatrick? A. I don't know that he belonged to it.

Q. W. V. Montgomery? A. He did not belong to it.

Q. John Trollinger? A. He belonged to it.

Q. Jerry Whitsett? A. I don't know about him.

Q. Calvin Gibson? A. I don't know about him either.

Q. John G. Albright? A. I don't know about him for certain; I understand that he did.

Q. Robert Hannah? A. I don't know about him.

Q. William Johnson? A. I don't know about him either.

Q. Henderson Scott? A. I don't know about him.

Q. William Stockard? A. I don't know about him.

Q. You have mentioned James Dixon before? A. Yes, sir.

Q. K. A. Albright? A. I don't know, sir.

Q. Thomas Lutterloh? A. I don't know him.

Q. John Gant? A. He belonged to it.

Q. James Foust? A. He belonged to it, sir.

Q. John Curtis? A. I don't know that he belonged to it. I never heard him say.

Q. A. Thompson? A. I don't know him either.

Q. Robert Stockard? A. I don't know whether he belonged to it or not.

Q. James S. Hunter? A. I don't know about him.

Q. James S. Scott? A. I don't think he belongs to it, sir.

Q. You say he does not? A. No, sir, he don't belong to it.

Q. Did not James S. Scott belong to the Constitutional Union Guard? A. I don't know about that.

Q. George Andrews? A. I don't know about him.

Q. Milton Pickard? A. I don't know him.

Q. Henry Robertson? A. I won't be positive about him.

Q. John. R. Stockard? A. I think he belonged to it.

Q. Joseph Stockard? A. I don't know about him.

Q. John Curtis—did he belong? A. I don't know, sir, about him.

*Cross-Examination.*

By Mr. MERRIMON:

Q. Was it any part of the object of the organization with which you associated yourself as you have described here to-day to overthrow or interfere with the existing state government or the federal government. A. No, sir, I never heard of any such purpose.

Q. Was it any part of its object to deprive the colored people of the state or of the south of their rights under the constitutional laws of the state or the United States. A. No, sir, not as I understood it. I never understood anything of that kind.

Q. Was it any part of the obligation of the organization or the purpose of the organization to excuse or exculpate any of its members when they were charged with crime by committing perjuries in court in their behalf or acting on the juries and finding false verdicts? A. Not that I know of, sir.

Q. You did not know of any think of that sort? A. No, sir.

Q. You never heard of it? A. I Never heard of anything of that sort.

Q. Are you generally acquainted with the people in your country? A. Yes, sir.

Q. What means had you of becoming acquainted with them? A. Well, I was a candidate and was associated with the people very extensively.

Q. Were you their senator in the legislature—you represented that county in the legislature? A. Yes, sir.

Q. Were you a practising physician? A. Yes, sir.

Q. Did you have an extensive practice? A. Yes, sir, I did until I came to Raleigh.

Q. Now I ask you if you know the general feeling between the white and black people in your county? A. Well, I think I do.

Q. What was it, sir? A. I think it was friendly.

Q. Do you know whether the black people were generally employed by the white people and the black people worked for the white people? A. Yes, sir.

Q. Work their land? A. Yes, sir.

Q. Worked as their laborers? A. Yes, sir, all of them.

*Re-Direct Examination.*

By Mr. Boyden:

Q. I ask you, sir, if among a considerable portion of the community there was not a very bad feeling towards the negroes? A. Not to my knowledge. If I may be permitted to say I have had, ever since the surrender, on my farm a family of colored people.

Q. Oh, I don't doubt your kindness to them; that is not what I am asking? A. I was just giving this as an instance.

Q. But that is not the point? A. I have never known any one to be discharged on account of his political sentiments—no colored people, I have known of some whites once.

Q. [By Mr. Merrimon] Who were they? A. The emplyees of the North Carolina rrailroad; but I have never known a colored man discharged from a farm on account of his political sentiments.

Q. You have heard of many outrages in the county? A. Oh, yes, sir, I have heard of them.

Q. And on colored people? A. Yes, sir.

Q. Do you think that indicates kind feelings towards them or not? A. Well, sir——

Mr. MERRIMON. That is an argument, sir.

Q. I want to bring to your attention this question, whether there is not among a considerable portion of the people—— A. Those outrages were perpetrated on men who had committed crime.

Q. But they were colored men wern't they? A. A portion of them were colored and a portion of them were whites.

Q. Does it enable you to speak of—— A. I was speaking of the good and respectable portion of the colored people who went and attended to their business and did their work.

Q. How was it towards those who were not considered respectable? A. Well, they fared but middling, so far as public sentiment is concerned.

Q. When the camp took them up, did they ever try them? A. I do not know, sir, I was never in a trial.

Q. You say you have traveled about a good deal in the county; you get this information as to the state of feeling from what you heard said traveling about? A. Talking with farmers.

Q. Did not you get this information as to these outrages in the same way, and of the existence of an unkind feeling on that account? A. Yes, sir, I heard it. It is generally talked through the country that when the Kuklux, or whatever it was, whipped them the public sentiment says that he has done a certain crime for which he is whipped.

Q. That was all approved of? A. Yes, sir. It was along at the start. Public sentiment changed against it.

*Re-Cross Examination.*

By Mr. MERRIMON:

Q. I want you to tell what you were going to tell about discharging men on the North Carolina railroad, what class of men were there discharged, and what was their politics?

Mr. BOYDEN. That has no connection with this case.

Mr. MERRIMON. You have called it out.

Q. Of what politics were the men who were discharged? A. They were conservatives.

Q. What were their names?

Mr. BOYDEN. You need not go into that.

Mr. GRAHAM. Mr. Boyden enquired if he had known of any colored men being discharged on account of their political opinions, and the witness said he had not known of any being discharged, but had known of the discharge of white people.

Mr. BOYDEN. The witness stated that himself without a question.

[The question was withdrawn.]

JACOB WHITESELL, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCORKLE:

Q. Go on and state all you know about the Kuklux organization. In the first place where do you live? A. I live in Alamance county, about five miles from Company Shops.

Q. What is your age? A. About twenty three or twenty four years.

Q. Now go on and state all you know about this organization, when you joined it? A. I joined it I think in the spring of 1869.

Q. What time of the spring of 1869? A. I think about April as well as I can recollect.

Q. Where did you join it? A. I joined in Guilford county close to the line. It was rather in Guilford county.

Q. What camp in Alamance did you connect yourself with, go on and tell all about it? A. I connected myself with the camp that William Tickle was chief of, I don't know the number or the name of the camp.

Q. Where was it located? A. At Shallow Ford, mostly in that neighborhood.

Q. State how many meetings you attended? A. Well, I did not attend but this one meeting—or the one camp rather, I was at some three or four meetings.

Q. State what you did at the first meeting, or what was done? A. The first meeting there was not any thing done only I think one was initiated,

Q. Who belonged to it—who was present at that meeting? A. I did not know any person but Jerry Albright.

Q. He was the only man? A. Yes, sir.

Q. You and he? A. I don't know, sir, there were others but they were disguised. I don't know who they were.

Q. Go on and state what was the object of this organization? A. I don't know that I can tell you. The real object I suppose was to keep down barn burning, outrages upon women, &c., so far as I recollect.

Q. Had you heard of any barn burnings in Alamance before you joined it? A. I don't know that I had.

Q. State whether one of the objects was to punish people for these things by the camps? A. I heard so, I don't know that it was so.

Q. You heard it from the camp did you—from the members? A. Yes, sir.

Q. That one of the objects was to punish people for committing violations of the law? A. Yes, sir.

Q. Try to refresh your memory a little and see if there was not somebody present besides you and Jerry Albright? that you know at this first meeting? A. No, sir, I don't know any person present at the first meeting except Jerry Albright.

Q. How many were there? A. I can't say how many there were there. There was some five or six, I reckon, as well as I can recollect.

Q. Only five or six besides you and Jerry? A. Yes, sir.

Q. Was he disguised—Albright? A. No, sir, he went with me.

Q. You and he joined at the same time did you? A. I don't know whether he joined or not, I went with him, and I joined.

Q. Where did you meet at that time? A. Well, we met around the Guilford line—it was on the Guilford side of the line.

Q. Did you meet in the day time or the night? A. It was in the night.

Q. What time in the night? A. About eight o'clock in the night.

Q. Whose house were you at? A. It was not at any person's house, in the big woods.

Q. In the woods? A. Yes, sir.

Q. What did you meet in the woods for? A. Well I don't know what for. That is where they said was the meeting and Albright told me I should go with him there and join.

Q. And you went into the woods and met this crowd and they were all disguised? A. Yes, sir.

Q. Except you and Albright? Were there any decrees passed at that meeting? A. No, sir.

Q. None at all? A. Not that I know of.

Q. How long did you remain—until the meeting adjourned? A. Yes, sir.

Q. How long were you in session there. A. Not very long. not more than half an hour, I don't suppose.

Q. Do you mean to tell the court that the only thing they did at that meeting was to take in just one member? A. I guess so.

Q. What were they doing during that half an hour? A. I don't know. When I went out to them they initiated me and then they left and me and Albright went home.

Q. You said they stayed a half hour. What were they doing? A. Well I heard them say—I don't know what they were doing, I was not with them when I first saw them. I was off at a distance.

Q. The second meeting, where was that held and when? A The second meeting was at Baldwin's shop—betwixt Baldwin's shop and Mr. Tickle's field.

Q. Who stayed at Baldwin's shop—did anybody live there?

A. No, sir, it was a blacksmith shop.

Q. Was it in the day time that you met? A. No, sir, it was in the night.

Q. What time in the night? A. I reckon that was about nine o'clock in the night.

Q. State who was at that meeting? A. Jerry Albright was ıere and George Gerringer and Daniel Whitesell. I don't ecollect any persons else.

Q. Were there only three there? A. Yes, sir, I cannot tell their names, there were some six or eight of them there, I reckon.

Q. Cannot you give the names of some of them? A, No, sir, I don't think I can—Well, yes, sir; Milton Huffines was there, I don't recollect any others.

Q. Why cannot you remember the names?—were they disguised? A. Some of them were.

Q. Have you given the names of all that were not disguised? A. Yes, sir, all that I knew.

Q. How long were you in session at that time? A. I cannot tell you exactly, about half an hour or so, I guess.

Q. Were any initiated that night? A. Yes, sir, I think there were.

Q. Who were they? A. Daniel Whitesell and George Gerringer, I think.

Q. State what you did there at that meeting; have you given the time when that was held? A. I don't know, sir, the month that it was held in.

Q. You said that you joined in April, 1869? A. Yes, sir.

Q. How long was this second meeting held after the first that you attended? A. I think it was along late in the fall, as well as I can recollect.

Q. What did they do besides the initiation of those persons? A. They didn't do anything more as I know.

Q. Were there any decrees to whip anybody? A. No, si

Q. How many more meetings did you attend? A. I was one more meeting.

Q. You said four just now, and you have given an account two? A. Well, I was at one when they whipped Bill Lc I went with them that night.

Q. Where did you meet that night? A. We met near

Q. Near which Mr. Tickle's? A. Near Mr. Lewis Tickle's.

Mr. GRAHAM. It is right that the witness should know that he is not bound to answer as to that meeting.

Mr. McCORKLE. He has confessed before I believe.

Mr. MERRIMON. His statement was extorted then.

Mr. GRAHAM. They propose, Mr. Chief Justice, to ask him as to the meeting where they assembled together to whip a man by the name of Bill Long. I state that it is proper that the witness should know that he is not bound to answer any question which implicates him in that affair.

Mr. SMITH. That is a matter with which the counsel have nothing to do; it is for the witness alone to answer or not as he chooses but it is not a matter to which the counsel can properly object. When the counsel for the prosecution were interrogating a witness as to whether he had been living in illicit intercourse with a woman, we did not object.

Mr. GRAHAM. Don't understand me as interposing any objection in the matter; but I think it proper that a witness of no more information than this seems to be possessed of should be apprized of his rights.

The CHIEF JUSTICE [to the the witness.] You will know that the law does not compel any one to incriminate himself, but if you are asked a direct question and refuse to answer, it is about equivalent to admitting its truth. They cannot, however, require you to answer.

Mr. GRAHAM. I beg leave to differ from the opinion of the presiding officer, that a refusal to answer is equivalent to a confession of guilt.

The CHIEF JUSTICE. The presiding officer does not mean to say that exactly, but that it makes such an impression. That is what the books say.

Mr. GRAHAM. I think the books lay down the rule that he is not bound to answer the question.

The CHIEF JUSTICE. And his reful to answer will weigh with the jury.

Mr. GRAHAM. Allow me to refresh the recollection of the presiding officer by a reference to Greenleaf.

The CHIEF JUSTICE. The presiding officer has not looked at Greenleaf, but that is his impression as to the language of the books. It is unnecessary, however, to discuss the question.

[To the witness.] You may answer the question or you may not, if you say it incriminates you.

Q. I will ask you what decree was made at the camp that you attended in reference to Long?

Mr. GRAHAM [to the witness.] You have a right to answer it or not, as you think proper.

Mr. SMITH. I submit, Mr. Chief Justice, that the remark is not proper. The counsel is endeavoring to prevent the witness from testifying.

The CHIEF JUSTICE. No, it is hardly proper after the witness has once apprized, to repeat the instruction.

Q. Go on and state what order was made while you were in the camp? A I do not know that there was any at all made. I did not hear any made.

Q. What was agreed to be done there about Bill Long? A. I don't know what they had agreed upon when I got there.

Q. Tell what they did? A. They didn't agree upon anything after I got there.

Q. What did they do? A. They whipped Bill Long, I suppose.

Q. I ask you if all that were present at that meeting of the camp went to see Bill whipped? A. No, sir, I don't think they did.

Q. They did'nt all go? A. No, sir.

Q. Where did the others go to? A. Some of them went home—at least the said they did.

Q. How many went to carry out the sentence to whip him? A. Well, I think there was some eight or nine.

Q. Where did they find him? A. They found him at Mr. Tickle's house, I think.

Q. What did they do to him? A. They took him out, I believe, and whipped him.

Q. Did they whip him pretty severely? A. Well, sir, I think they gave him about thirty or thirty-five licks, as well as I know.

Q. How did they whip him—just go on and state all about it. A. Well, they whipped him with hickories.

Q. Did they undress him? A. I don't know whether they did or not, I think not.

Q. Did they buck him? A. I don't recollect.

Q. I am requested to ask you how they got him out of the house—I believe I did ask you that though? A. They went in and got him out, I think.

Q. How did they get in? A. They went to the door, and Mr. Tickle, I think, opened the door.

Q. They carried him out? A. I think so

Q. How did they carry him out; did they tie him or not? A. I don't recollect whether they tied him or not. I think they tied him and led him out.

Q. You recollect they tied him and led him out? A. Yes, sir, I think so?

Q. How far did they carry him? A. They carried him off about a quarter of a mile, I think.

Q. I ask you if they didn't buck him? A. I don't recollect.

Q. Give the names of the parties that were there? A. William Lowe and Rankin Lowe, Daniel Whitesell, Jerry Whitesell, Rankin Whitesell and William Smith.

Q. Anybody else? A. William Tickel.

Q. William Tickel the chief of that camp? A. Yes, sir.

Q. The chief then was there also? A. Yes, sir.

Q. Who else was there? A. I don't recollect any persons else that were there.

Q. Was Julius Sommers there! A. I did not see him.

Q. Was William Lowe there? A. Yes, sir.

Q. Was William Gerringer there? A. No, sir.

Q. Henry Lowe? A. No, sir.

Q. Peter J. Sommers? A. No, sir, not that I know of.

Q. The persons I have just asked you about, did they belong to that camp? A. Yes, sir, I think some of them did. I don't know that they all did.

Q. Who did not belong to it of the names that I have just called? A. I don't think William Gerringer belonged to it.

Q. Did all the others belong to it? A. I think so, as well as I recollect. I didn't see them join. I heard them speaking of it.

Q. You heard them all speaking of it? A. Yes, sir.

Q. You knew they were all members but Gerringer? A. Yes, sir.

Q. You say they gave him about thirty lashes? A. Yes, sir, I think so.

Q. Did they whip anybody else that night? A. No, sir, not that I know of.

Q. How did they whip him? A. They whipped him with switches.

Q. Did they tie him to a tree or buck him or how? A. They tied him, and he sat on the ground. I don't recollect whether he was bucked or not.

Q. He sat on the ground? A. Yes, sir.

Q. I understood you to say he had his clothes off? A. I think he had his clothes on. I am not positive.

Q. When was the next meeting? A. I cannot tell you the day. The next meeting that I was at I believe was along in the fall of 1870.

Q. Where was that? A. That was near the Guilford line.

Q. I will ask you if it was before Kirk went to Alamance? A. Yes, sir.

Q. Then it could not have been in the fall of 1870? A. I do not know the date when it was.

Q. How long was it before the troops went to Alamance? A. I do not know how long it was. It was two or three months I think.

Q. Where was that meeting held, and at what hour of the

night? A. That was about 9 o'clock in the night, I reckon, as well as I know.

Q. Where at? A. Near the Guilford line.

Q. Where was it, at somebody's house? A. No sir it was in the woods.

Q. Who was present? A. Jerry Whitesell and Rankin Whitesell, Joel Swayne, Levi Michael. I don't recollect any person else.

Q. [By Mr. Graham.] Were these Guilford men that you are speaking of or Alamance? A. Alamance men.

Q. How many were there? A. I don't know how many there were—about seven or eight, I think.

Q. State whether they were disguised? A. Yes, sir, they were disguised, some of them.

Q. Tell what you did that night—was there a decree passed there that night? A. No, sir, I think not.

Q. No, order? A. No, sir, not that I know of. There had been a decree passed some time before that I reckon, but I was not there when it was passed.

Q. What was the decree? A. I believe to whip Carter Cossy.

Q. What did you do in accordance with the decree? A. Well, I think they went and whipped him.

Q. How many went? A. I don't know, sir, how many.

Q. Well, you can form some idea? A. Some six or seven.

Q. Where did they find him? A. They found him at his house, I think.

Q. Who lived with Cossy? A. I don't know.

Q. How many were in his family? A. I don't know.

Q. Was anybody there that night but him? A. I think there was.

Q. Who? A. A black woman in the house there.

Q. Was not she his wife? A. I don't know that.

Q. What time in the night did they get there? A. I don't know.

Q. You can form some idea. You said it was about nine

o'clock that you met? A. I reckon it was about 10 o'clock.

Q. How far did you have to go from this camp where you all had rendevouzed? A. About half a mile.

Q. When you got there how did you get in the house? A. They opened the door and went in, I think.

Q. Did they break the door? A. No, sir, I think not.

Q. Did they ask permission to get in first? A. I don't know.

Q. When they got in there what did they do? A. Well, they asked him out, I believe, and took him out.

Q. Did they tie him? A. No, sir.

Q. How far did they carry him? A. They carried him off about 100 yards.

Q. What clothing did he have on? A. A shirt and drawers, I think.

Q. What season of the year was it—cold or warm? A. It was very cold.

Q. Was it the winter season? A. I don't recollect whether it was or not.

Q. What did they do to him? A. They whipped him a little.

Q. How did they fix him when they went to whip him? A. Well, they just told him to step up to a tree and they would whip him.

Q. Did he put his arms around the tree? A. Yes, sir.

Q. He stood meekly up to it? A. Yes, sir.

Q. Then how much did these men lay on him?

Q. [By the Chief Justice.] How many licks? A. About twenty-five.

Q. Was it a very bad whipping? A. No, sir, not very much, I think.

Q. A very light whipping, was not it? A. No, sir, I cannot say that it was so very light or so very severe. It was just about a common whipping.

Q. I ask you if you did not draw the blood out of him? A. I don't know, sir.

Q. When you got done whipping him what did you say to him? A. I didn't say anything to him myself.

Q. What was said to him about his telling? A. I believe he was told to go home and behave himself as a man ought to.

Q. Was anything else told him about if he mentioned it what would become of him? A. No, sir.

Q. Nothing of that sort? A. No, sir.

Q. Were the parties all disguised at the whipping? A. Yes, sir.

Q. What other meeting were you in? A. No other raid, sir.

Q. What did you do with the disguise you had? A. I destroyed it.

Q. What was it made of? A. Made out of cloth.

Q. Black cloth? A. No, sir, white.

Q. When did you destroy it—before Kirk came to Alamance or afterwards? A. Before he came.

Q. How long before? A. I don't recollect just how long.

Q. Was it before the federal troops went there or afterwards? A. It was about that time.

Q. You thought it was time to burn it, did you? A. I didn't think anything about it.

Q. Did you burn it? A. No, sir.

Q. What did you do with it? A. I just tore it up and threw it out.

Q. How many members belonged to that Shallow Ford camp? A. I don't know, I cannot tell you how many did belong to it.

Q. You can form some idea—you had four meetings you say? A. I suppose about thirty or thirty-five, there may be fifty, somewhere along there.

Q. Were you elected chief of the camp upon a vacancy occurring? A. I was, but I didn't serve.

Q. At what time did Mr. Tickel tender his resignation? A. I don't know what time.

Q. Was it about the time the federal troops came there or afterwards? A. I do not know.

Q. You don't know when he resigned? A. I do not know what time.

Q. When was it offered to you? A. I don't know the day when it was. I didn't receive it at all. I think it was before it was offered to him, or about that time.

Q. Wasn't it after Wyatt Outlaw's murder? A. I don't know when he was murdered. I heard about it, but I didn't know the date of that.

Q. It was last February. You cannot tell when it was offered to you? A. No, sir.

Q. Which one of the meetings was it that you had the honor of being elected chief, of these meetings you have spoken of? A. It was another meeting. It was near Tickel's field.

Q. Then there were five meetings? A. Yes, sir.

Q. What time of night was it? A. I reckon it was about 10 o'clock at night.

Q. Were there many there? A. No, sir, not very many there.

Q. Was there a majority of the camp? A. No, sir.

Q. Not a majority? A. No, sir.

Q. Do you elect officers without having a majority present? A. It was not an election particularly—it was just an offer.

Q. How many were there? A. Eight or nine there, I reckon.

Q. Only eight or nine? A. I reckon.

Q. What did you do there that night? A. We didn't do anything more than they had come there to have an election, and elect a chief.

Q. Was that all that was done? A. Yes, sir.

Q. Did you have any other officers in that organization—any lieutenants? A. I do not know, sir. I was not at any election.

Q. Do you know whether there was any other officer than

Tickel? A. If there were I did not know. There was none acting.

Q. You don't know whether they had any other? A. I did not know any but the chief.

Q. State what were the duties of the chief? A. I don't know as I can.

Q. You can form some idea? A. I think it was his duty to take in members who wanted to join.

Q. What about executing sentences? A. I do not know. I think that it was not done unless by his permission.

Q. Nothing could be done except by permission of the chief? A. Yes, sir.

Q. When there was a decree to whip a person, was it ordered by the chief only, or by the members of the camp? A. It was made by the camp.

Q. They took a vote? A. Yes, sir.

Q. Then the chief carried out the sentence? A. Yes, sir.

Q. Suppose that your Shallow Ford camp directed any man to be whipped who lived in the limits of that camp would your camp whip him, or would you get some other camp to do it? A. I do not know. I cannot tell you whether it was by that camp or another. Sometimes it was by one camp and sometimes by another camp, as far as I can hear.

Q. Then when it was not done by that camp by whom was it done—by another camp? A. Yes, sir.

Q. How many camps did you know of in that county? A. I do not know but one of my own knowledge.

Q. I don't care whether you know of your own knowledge, or whether you have learned from members of the order. How many were there in that county so far as you know, either by your own knowledge, or from information you got from persons who belonged to the order? A. I knew one other camp, I believe.

Q. What camp was that? A. I don't know the name of it.

Q. Who was chief of that? A. George Anthony, I think, was chief of it. I do not know that to be so, but that is what I heard.

Q. You heard that from members? A. Yes, sir.

Q. How many other camps were there that you heard of from members existed in the county? A. That was all I ever heard anything about. I never heard of any more.

Q. Yet you heard that Jacob Long was chief of the county? . Yes, sir, I heard so.

*Cross-Examination.*

By Mr. MERRIMON:

Q. What did they whip Long for? A. For breaking in Patton's house, and stealing some clothes and things. I do not know all what he stole.

Q. What did they whip Cossy for? A. He had been stealing some hogs, I believe.

*Re-Direct-Examination.*

By Mr. McCORKLE:

Q. Before they whipped Long did they have a regular trial and investigate the charges and let Long offer evidence as to his guilt or innocence?

Mr. GRAHAM. That, Mr. Chief Justice, is objectionable. They are going over the same ground of the direct-examination.

Mr. CHIEF JUSTICE. You can state what was done.

Q. Did they offer any evidence there? A. Yes, sir, Mr. Patton was there.

Q. Did Long have any evidence? A. Not as I know of he did not.

Q. [By the Chief Justice.] Long was not there? A. No, sir.

Q. Do you know personally whether he was guilty or not? A. I do not know.

Q. What sort of a trial did you have when Cossey was whipped? A. I don't know what trial. They didn't have any trial, only it was said that he had been stealing.

Q. Who from? A. That he had been stealing hogs, it was said, from Mr. Tickel.

Q. Was Mr. Tickell present? A. No, sir.

Q. Which Tickel was it? A. Joel Tickel.

Q. Had Mr. Tickel been before your camp? A. No, sir.

Q. Have you any personal knowledge of his stealing? A. No, sir. I have not.

Q. What relation was Joel Tickel to William Tickel, your chief? A. He is a cousin, I think.

Q. Then you whipped both upon evidence without a witness being sworn? A. Yes, sir.

DANIEL WHITESELL, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCorkle:

Q. Where do you reside? A. Gibsonville.

Q. What county? A. Alamance.

Q. What is your age? A. Forty-nine or thereabouts.

Q. Go on and tell all you know about the White Brotherhood and your connection with it? A. Do you mean about my joining?

Q. Yes, sir? A. Well I joined near Richard Baldwin's blacksmith shop. Peter Hughes took me out, and I joined. It was on a little road that goes to the shop.

Q. [By Mr. Merrimon.] Was it in Alamance? A. Yes, sir.

Q. What time? A. In the night some time, between eight and nine o'clock, I reckon.

Q. What year? A. 1869, I think.

Q. Do you know what time in 1869? A. No, sir, I do not exactly.

Q. Was it in the spring or fall? A. I rather think it was in the spring, but I am not positive about that.

Q. Go and state what you saw that night? A. I saw George Gerringer; he was initiated that night, and I saw Jerry Albright. Further than that I cannot say as they were all disguised, and when I went away I left them disguised.

Q. How many were at that meeting? A. I am not positive, but some nine or ten, it may be more, I cannot say.

Q. What decree did they make that night? A. There were no orders that I know of; they only initiated us two.

Q. Where did you say it was? A. On a little road that comes into Richard Baldwin's.

Q. Did you have lights there? A. No, sir.

Q. It was in the woods? A. Yes, sir, right on a little road.

Q. How far from the public road? A. A good ways from the public road—about a mile—do you mean a country road or a public way?

Q. I mean where people travel? A. It was not more than fifty yards from a road that people pass on.

Q. It was a neighborhood road? A. Yes, sir, it was a neighborhood road.

Q. What did they do in your initiation—state how you got in, and all about it? A. That is more than I can do; they were disguised when they took me in.

Q. How were they disguised? A. They had on white caps and gowns.

Q. Gowns and caps by which their persons were concealed? A. Yes, sir.

Q. How did you get in there? A. I was led in by the conductor.

Q. How did he do? A. He took me into the camp.

Q. Was there any slapping? A. No slapping at all.

Q. He just got you in? A. Yes, sir, he just got me in.

Q. What did you do when you got in? A. They sort of tormented me a little, and said a few words, but no harm came from them.

By the CHIEF JUSTICE:

Q. What do you mean by tormenting? A. Plagueing me.

Q. Give us an idea what they did? A. There was some foolish words I cannot tell myself.

By Mr. McCORKLE, [resuming:]

Q. Try and give us some idea of what they said to you? A. That is all I can say. I do not remember a word of it at present.

Q. Was there an oath administered to you? A. I took an oath, that is all I know about it.

Q. How were they sworn? A. I cannot tell you that.

Q. Did they have a bible there? A. No, sir.

Q. Did they swear you by the up-lifted hand? A. By the hand lifted up.

Q. Who swore you? A. Peter Hughes did.

Q. He got you in? A. Yes, sir, he got me in.

Q. Can you tell what was the nature of that oath? A. No, sir, I cannot.

Q. Did you hear the oath read the other day which Peter Hughes produced. A. Yes, sir.

Q. Was that the oath you took? A. I don't think it was exactly. There was some part of it as well as I mind.

Q. What part of it do you mind? A. I cannot speak to that.

Q. Do you mean that part that you were not to give state's evidence against each other? A. I didn't mind anything of that.

Mr. GRAHAM. There is no language of that kind in the oath that was read.

The CHIEF JESTICE. The witness Hughes, when he was examined, stated that the language referred to he did not recollect—the part which was marked.

By the CHIEF JUSTICE:

Q. Was it dark at that meeting, or did you have a light? A. It was dark—there was moonlight.

Q. Could you read anything in print? A. No, sir, he said it to me, there was no reading of it to me that I know of.

By Mr. McCORKLE, [reuming]:

Q. Peter just pronounced the oath verbally to you? A. Yes, sir.

Q. Did he read from a paper? A. No, sir, he didn't read at all, it was dark.

Q. You cannot give the purport of the oath? A. No, sir, I cannot.

Q. What was done at that meeting? A. Nothing more as I knew of than conferring the degrees upon us.

Q. They conferred degrees on you? A. Yes, sir.

Q. How many? A. Only one.

Q. How was the ceremony performed? A. I don't know.

Q. How did they confer degreas upon you? A. Just read it over.

Q. Did they put their hands on you? A. No, sir.

Q. It was was just by taking the oath? A. That is all I could see.

Q. State to us the object of that organization? A. I cannot state any more than to keep down riots where the courts did not take hold.

Q. Where the courts did not take hold, it was organized to keep down riots? A. Yes, sir, and stealing.

Q. How were you to do it? A. If the courts did not take hold, this company would whip them for it. That is what I took it to be as far as I understood it.

Q. That you think was the main object? A. That was my information about it.

Q. Suppose negroes insulted white people what were they to do? A. I never heard much said about that in my life.

Q. You didn't hear anything about that? A. No, sir.

Q. You did't hear much about that. Did you hear a little? A. It was said something about insulting their wives and talking saucy to white women.

Q. They were to be taken up and whipped? A. Yes, sir, to try to keep such down.

Q. By whipping them? A. Yes, sir.

Q. What was the next object you had and where was the next meeting? A. As well as my recollection goes it was down near Peter Sommers' on Travis creek.

Q. Right in the woods? A. Right in the road.

Q. What time? A. Between eight and nine o'clock.

Q. Did you have any light? A. No, sir.

Q. Did you not use lights at your meetings? A. No, sir.

Q. Why? A. We didn't need none.

Q. Did the moon shine at every meeting? A. I don't know as it did every time.

Q. Why didn't you use lights? A. We didn't need them I reckon.

Q. Don't you know perfectly the reason they didn't have lights? A. Of course—not to be seen I reckon.

Q. The object then was to prevent detection? A. That was my notion about it.

Q. I reckon you are correct. At that meeting who was present down the creek? A. I can only tell you some, but I cannot recollect them all. There was Peter Summers, Milton Huffinies, John Tickel, William Lowe and Rankin Lowe. I cannot think of any other names at present—yes, William Tiekel.

Q. He was the chief? A. Yes, sir.

Q. Did you have any other officer beside the chief? A. Not as I know of. They said there was, but I am not positive about that.

Q. For a camp to be complete, did you not have to have one or two lieutenants? A. They said there was—that is all I knew. I never knew anything about lieutenants—I was never posted up.

Q. Have you given all the names of those who were present at that second meeting? A. No, sir, I have not, because I didn't know them all. I don't recollect who was there. There were more.

Q. How many do you think were there? A. I could not tell you that.

Q. It may be fifteen—twelve or fifteen? A. I have no doubt there was.

Q. What did they do that night? A. They didn't do anything except take in some members. They took in Jerry Whitesell, I think—no, I am mistaken, I think they took in Joseph Crissman.

Q. Where did he live? A. He lives in Alamance.

Q. How far from that meeting house? A. He lives about a mile I reckon.

Q. Cannot you think of somebody else that was there? A. I think my brother Jake Whitesell was there.

Q. Anybody else? A. Julius Sommers was there.

Q. Anybody else? A. There were some more there but I cannot tell their names at present.

Q. Was William Gerringer there? A. Not as I know of he was not.

Q. Was there anything more that night except to take in the members? A. Nothing else.

Q. Were there any decrees? A. No, sir.

Q. Where was the next meeting? A. I cannot tell when it was, but I can state where it was. It was at the Shallow Ford meeting house.

Q. How long was that after your initiation, this third meeting? A. I am not able to tell, but not very long.

Q. A few months? A. Yes, sir, I reckon it was a couple of months. It may be, I cannot tell you that.

Q. I will ask you in the first place how did the men attend this meeting? did they walk or ride? A. Walk.

Q. Always walk? A. Always walk.

Q. What did you do at that meeting? A. There was nothing done except only they met there for the purpose if anybody wanted to come in. I don't know anybody coming in at the present time.

Q. Were there any decrees passed? A. None at all.

Q. Any decrees executed? A. No, sir, none at all.

Q. When was that next meeting? A. I cannot tell when, but I can state the place—there was a meeting there at another time—that is near there, it was on the same ground.

Q. In the woods? A. In the road.

Q. Were the parties disguised? A. There was a few there, only some two or three.

Q. What did you do then? A. We didn't do anything, there was nobody there.

Q. Tell of some meeting when you did do something—come to the fifth meeting? A. We didn't do anything until we whipped Daniel Jordan.

Q. What decree was passed? A. It was to gather up and go there and whip him.

Q. Where did you get the order? A. I am not able to tell you that at all, I got it from Julius Sommers and that is all I say.

Q. Was it a written order? A. No, sir, it was just verbal.

Q. What was the purpose of it? A. It was the intention to whip Jordan.

Q. When? A. The same night.

Q. Where did the crowd meet? A. They met near Joel Tickel's or Lewis Tickel's—it is right on the same branch at a hill.

Q. What did you do? A. We went up to his house and whipped him.

Q. What time did you meet there? A. I suppose about eight o'clock or near nine.

Q. How did you get in? A. Mr. Tickel opened the door.

Q. Did you burst the door in? A. No, sir, I am wrong. It was Daniel Jordan—we burst open the door.

Q. The crowd burst the door open? A. Yes, sir.

Q. When you bursted the door open who did you find in there? A. Daniel Jordan.

Q. Who else? A. Nobody else that I know of.

Q. Was his wife there? A. No, sir.

Q. Was he in bed? A. I did not see him?

Q. He was taken out of the house? A. He was out when I got there.

Q. What did the men say to you about taking him out? A. I never heard them say anything about it.

Q. Was it dark in his house when you got there? A. Yes, sir.

Q. What did he have on when he came out of doors? A. He had his night clothes on.

Q. Where did they carry him? A. They carried him close down to Haw river.

Q. How far was that? A. He ran down there.

Q. Did he try to get away? A. Yes, sir.

Q. Did they catch him? A. Yes, sir.

Q. What did they do then? A. They whipped him.

Q. How did they do it first—did they tie him? A. No, sir.

Q. Did they mark him hug a tree? A. No, sir.

Q. Did they buck him? A. No, sir.

Q. He just sat quietly down on the ground? A. Yes, sir.

Q. How did they whip him? A. With hickories.

Q. How many hickories? A. I cannot tell that because I don't know.

Q. How many licks did he receive? A. I just suppose they may have given him thirty or forty.

Q. Did every man present whip him? A. I don't think they did,—I know they did not.

Q. Some did not whip him? A. Some did not.

Q. How many did whip him? A. I am not able to tell you because I don't know.

Q. But they did give him about thirty or forty? A. I think about that.

Q. He quietly sat on the ground and took it? A. Yes, sir.

Q. He didn't get up? A. No, sir, not until they told him.

Q. Was he badly whipped? A. Tolerably well I thought—it was a good whipping I think.

Q. You mean to say he was pretty badly whipped? A. I did not call it a very bad whipping. I call it a tolerably good whipping.

Q. What did they do with him after they got through with him? A. They told him to go back to his house and behave himself hereafter.

Q. Anything said to him about what would become of him if he told of it? A. No, sir, not that I know of.

Q. You got your orders from Sommers? A. Sommers gave me the orders.

Q. Which Sommers? A. Julius.

Q. When got to the camp you had this trial? A. We agreed to do this at the camp at Shallow Ford before we went there.

Q. Did you have evidence which guided you to your conclusion? A. Yes, sir, we had evidence.

Q. Who did you have? A. That he had been stealing, do you mean?

Q. Yes, sir? A. We had it from those who found the property with him.

Q. Were they sworn in your camp? A. No, sir, they were not sworn.

Q. Were they examined at you camp? A. No, sir, it was told us and we were satified.

Q. You had no doubt it was so? A. No, sir, we were satisfied it was so.

Q. Upon what you had been told you went and did what you have described? A. Yes, sir.

Q. Were there any other decrees out in your county? A. At that time there was nothing more.

Q. Was that the only whipping you did that night? A. That was the only whipping that night.

Q. When did you get any other decree? A. I don't know exactly what time it was, but it was in the fall of the year, as well as I can remember. These were both in the fall of the year. We had another raid made upon William Long, and we whipped him.

Q. Was there an order to whip him? A. There was from the camp, of course.

Q. I don't know that of course. Which camp did it come from? A. Tickel's camp.

Q. Was the decree made in that camp or in some other? A. In Tickel's camp.

Q. How many were present when it was ordered that he

should be whipped? A. Some eight or nine as well as I can tell you.

Q. What did they do? A. They went there and took him out and whipped him.

Q. Where did they find him? A. In Lewis Tickles' house.

Q. How was he whipped—did they buck him? A. Yes, sir, I think they did.

Q. What did they whip him with? A. With hickories.

Q. How many licks did they give him? A. I am unable to tell you how many but I would suppose the same number as the other, thirty-five or forty, along there some where.

Q. Was he badly whipped? A. He was not so badly whipped.

Q. He was whipped right well? A. He was tolerably well whipped.

Q. What did you do with Bill after you had whipped him? A. We told him to go to Mr. Tickel's and behave himself hereafter and to tell Mr. Tickel what he was whipped for.

Q. Any thing told him about mentioning what had been done? A. Not a word that I heard.

Q. Did you attend at any other whipping? A. No, sir.

Q. Has any body ever been indicted for any of these whippings? A. Yes, sir, there are some bound over now.

Q. Is there an indictment against them? A. They are bound over to the superior court now.

Q. Was any body indicted for whipping Daniel Jordan? A. No, sir, not that I know off.

Q. Is there any body indicted for whipping Bill Long? A. I think they are bound over to court for whipping both of them.

Q. When were they bound over? A. Before the last court. They were bound over here.

Q. You refer to the proceedings here? A. Yes, sir.

Q. You have had one court since then? A. No, sir, we have not had any court, we expected to have a court but the judge did not have it.

Q. He did not hold any court? A. No, sir.

Q. There has been no indictment, but they have been bound over here for whipping Daniel Jordan? A. I think there is, but I am not positive.

Q. Have you ever been bound over to court except in the proceedings here? A. No, sir, I have been made a state's witness against them.

Q. But you have had courts since 1869? A. Not since this binding that has been done.

Q. I am talking about before that time? A. Yes, sir, of course we had courts.

Q. Since those outrages were committed you have had two or three courts have you not? A. I am unable to say. We have not had any court for six months.

Q. You say there has never been any indictment against you either, although you have had two or three courts? A. I don't say how many.

Q. Have you been on a grand jury since these outrages have been perpetrated? A. No, sir.

Q. Have you been on the grand jury since the act was passed making it an indictable offence to go disguised? A. No, sir, I have not. It has been a good while since I have been on a grand jury.

Q. Do you know, of your own knowledge, that any members of the camp to which you belonged have been on the grand jury? A. I do not.

Q. You don't know if they got anybody on the grand jury from Shallow Ford? A. I dont, mind as they did. I don't think they did, as well as I mind.

Q. How far is Shallow Ford from Graham? A. I reckon it is near ten miles.

Q. Were you present at the meeting at Graham which denounced the act that had been introduced in the legislature and which was read here a few days ago? A. No, sir, I never attended a meeting there of any kind.

Q. I ask whether the hanging of Outlaw was talked of in your camp? A. No, sir, I never heard of it at all in our camp.

Q. Not till after that had occurred? A. Not until long after.

Q. Or of Puryear? A. No, sir, I did not know, I expect until a month after it was done. I heard a rumor, that is all I ever heard about it.

Q. Was it talked of and approved in your camp? A. No, sir, it was never talked of in the camp.

*Cross-Examination.*

By Mr. MERRIMON:

Q. What did you whip Jordan for? A. For stealing—for breaking into Israel Coble's house—the old man. There are two Israel Cobles.

Q. What did you whip Long for? A. For breaking into Patten's house and stealing.

Q. What did they steal? A. Some clothes and hats.

*Re-Direct-Examination.*

By Mr. SMITH:

Q. Do you know of your own knowledge that he stole?

Mr. MERRIMON. Mr. Chief Justice, I have no objection to the respondent having the benefit of any testimony that can be adduced in his behalf; but your honor will note that our friends on the other side have gone into details of these transactions which have nothing to do with the case. This court has already decided that they do not care about details of these transactions. That decision was made when the case of Stevens was up. They want to show that certain offences were perpetrated and not punished, and when they adduce sufficient testimony to show that it seems to me that is enough without going into the details of the offences. It seems to me there is no end if we are to have repetition after repetition of these details and thus consuming the time of the court.

Mr. SMITH. Mr. Chief Justice, we have simply proved these outrages. Then on the other side they have asked what these men are whipped for and the witness answered the question stating positively, and we propose simply to get at the truth. We desire to know what in point of fact were the proofs that these men had as to the guilt of the parties whom

they whipped. They may be unfounded reports and I ask if we have not a right to show that they acted upon no evidence at all.

Mr. MERRIMON. I am not objecting to this examination.

The CHIEF JUSTICE. In regard to the lecture which is given by one counsel to the other the presiding officer desires to say that he cannot control or interfere with counsel. The examination must be left to their discretion. The presiding officer thought the counsel for the managers were tedious in the length of their examination in reference to the feeling between the white and black people in the counties, and he has thought that the counsel for the respondent has also been been tedious in the matters which they have gone into; but the presiding officer does not see how he can control them.

Mr. GRAHAM. On the question of the feeling between the whites and blacks we had two witnesses from each township. The point was raised before whether before this punishment was inflicted there was any examination and the witness stated that there was a person who charged these persons there with theft.

The CHIEF JUSTICE. The witness stated that they acted upon hearsay. As it seems to the presiding officer. it is a mere effort of the parties here to get in the last word.

Mr. McCORKLE. The witness say he don't know in fact that the men had committed any crime.

The WITNESS. The magistrate issued a warrant accusing them of stealing.

Q. [By Mr. Graham.] What magistrate? A. A magistrate in the township.

Q. [By Mr. Boyden.] You were asked if you knew anything about these men stealing personally? A. No more than what has been told.

JEFFERSON YOUNGER, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. SMITH:

Q. Were you a member of the Kuklux organization? A. Yes, sir—or the White Brotherhood.

Q. When did you first become a member? A. Sometime in

Q. What time in the year? A. I think it was in the spring or the first part of the summer, I am not positive what time.

Q. How long did you remain a member of it? A. Until some time in 1869.

Q. You left it in 1869? A, Yes, sir.

Q. How many meetings were you ever present at? A. Some three or four.

Q. Which camp did you belong to? A. I believe it was camp No. 4.

Q. Where was it, what part of the county? A. About six miles north of Graham.

Q. How many camps were there in the county? A. I do not know.

Q. From what you have heard among the members of the organization, how many camps were there in the county? A. I have heard there were nine or ten. I don't know of my own knowledge.

Q. Who was the chief of the camp to which you were attached? A. Sheriff Murray was considered the chief.

Q. The sheriff of the county? A. Yes, sir.

Q. Was he sheriff at the time he was chief of the camp. A. No, sir, I think not.

Q. When did he cease to be sheriff? A. It has not expired yet—he is sheriff now.

Q. When did he commence? A. I think he commenced in the fall of 1868.

Q. When was he a member of the camp? A. He was a member of the camp in the spring of 1868 I think.

Q. Did you see him at any meeting that spring? A. I never met him except at two meetings.

Q. When was the second one? A. The second one was two or three weeks after that.

Q. Do you know that he quit? A. I never met him in camp after that.

Q. That is all you can say? A. He told me he was going to quit it—that he was not able to go out at night.

Q. When did he say that to you? A. Some time in the spring of 1868.

Q. When did you join it? A. In the spring of 1868 as well as I can recollect.

Q. At the same time Sheriff Murray did? A. He was a member before I was.

Q. You don't know when he joined? A. I do not.

Q. What is it that fixes 1868 as the time you became a member—that would be three years ago? A. I think it is.

Q. What is it that fixes it in your mind as the spring of that year? A. It was some time in the spring or the first part of the summer. I cannot be certain which.

Q. (By the Chief Justice.) Was it after the election? A. Before the election.

Q. I ask you to look at this affidavit which I now produce with a view of refreshing your memory?

Mr. GRAHAM. When was it made?

Mr. SMITH. I only show it with a view of refreshing his memory.

Mr. GRAHAM. As I understand it the affidavit was extorted from this witness while Kirk was in Alamance.

Mr. SMITH. It is not offered in evidence.

Mr. GRAHAM. I do not consider it evidence for any purpose.

The CHIEF JUSTICE. The affidavit is not evidence, but the witness can look at the paper, not to speak of its contents but simply to refresh his recollection in regard to a date.

Mr. GRAHAM. If it was an extorted statement it would hardly be of any effect.

The CHIEF JUSTICE. It will not have any effect unless it refreshes his memory.

The WITNESS. My recollection is that it was the first part of the summer.

Q. [By the Chief Justice:] What year? A. 1868.

Mr. MERRIMON. Who wrote that affidavit?

Mr. SMITH. The affidavit is not in evidence.

Q. (By Mr. Boyden.) Have you read the date in that affidavit? A. Yes. sir.

Mr. BOYDEN. You had better read it and see.

Senator Worth. I think, Mr. Chief Justice, that they had better inquire whether the witness can read.

The WITNESS. I can read.

The CHIEF JUSTICE. You seem to be very slow about it. Look at the beginning, and see if it makes you recollect the date.

[The witness again looks at the paper.]

Q. What is your present recollection as to the time you became a member of that organization? A. I think it was the first of the summer of 1868.

Q. Before or after the election? A. Before the election.

Q. What is there that makes you think it was before the election? A. The election always comes in August.

The CHIEF JUSTICE. At that time the election came sooner—the election about the constitution.

Q. Was it before the election? A. I don't recollect what time the election was.

Q. Was this shortly before the election? A. I cannot say; I don't recollect.

Q. What is it that fixes the time in your mind? A. It was not very cold weather I know; I think it was the latter part of the spring,

Q. Do you know what sort of farm-work was going on in the county? A. I think they were ploughing corn—ploughing or working it.

Q. Whereabouts were you initiated? A. Near Seller's mill-dam.

Q. What time? A. About eight or nine o'clock.

Q. Did you have any lights? A. I don't think we did; it was a moon-shining night.

Q. Don't you know whether you did? A. I don't think we did.

Q. Who was present? A. Myself and F. U. Blanchard.

Q. Who else? A. William Redding, and I think Archibald Lineberry.

Q. Do you know whether Albert Murray was there? A. I don't recollect whether he was there or not. When I got there there was some disguised men. He might have been there.

Q. Was George Mebane? A. I think he was there—I think I recognized his voice.

Q. Walter Thornton? A. I think so.

Q. William Fogleman? A. Yes, sir.

Q. William F. Moore? A. I think not.

Q. John W. Long? A. I think he was there.

Q. William Blanchard? A. I don't think he was there that time.

Q. John Gant? A. Yes, sir.

Q. John Jeffries? A. I don't know whether he was there or not.

Q. Have you read over this affidavit? A. Yes, sir.

Q. These other persons you mentioned in it—you don't know whether they were there or not? A. It has passed my memory. At the time I made this affidavit I was under arrest Some were there and some I do not recollect.

Q. Were persons in disguise there that night? A. Some were in disguise and some were not.

Q. How many of each kind? A. I think there were three not disguised, if I am not mistaken.

Q. Did you know those who were disguised? A. I don't

think I did. I thought that I recognized the voice of one, but I would not be positive.

Q. Who was the chief of the camp that night? A. I don't recollect whether there was any chief that night or not. It was suppposed to be Sheriff Murray—Albert Murray.

Q. You think he was? A. I think he was.

Q. Did you take any obligation? A. Yes, sir.

Q. In the form of an oath? A. Yes, sir.

Q. Who administered it to you? A. I think George Mebane did it.

Q. Was there a bible present? A. No, sir.

Q. How was it done? A. By the uplifted hand.

Q. Do you remember what that oath was? A. No, sir, I cannot recollect to call it to memory.

Q. Do you know of any of its provisions ——

Q. [By the Chief Justice]. Can you recollect what was said to you when you held up your hand? A. I don't believe I can recall any of them. I believe I would know it if I was to see it.

Q. They didn't read it, they just talked it? A. Yes, sir it was in writing. The moon was shining very bright.

By Mr. SMITH (resuming):

Q. Light enough to read by? A. Yes, sir.

Q. The paper was read? A. Yes, sir.

Q. What were the terms of it? A. I suppose to keep down stealing.

Q. Was that in the oath, to keep down stealing? A. No I don't think it was.

Q. I am asking you about the oath—what was the oath you took—state any part of it that you remember? A. I don't remember the oath.

Q. Do you remember whether there was anything in it about revealing the names of the persons who initiated you? A. Yes, sir, that was in it.

Q. What was the oath? A. Swearing not to reveal the names of persons who initiated me.

Q. Was there anything in the oath about revealing the secrets of the order? A. I think so.

Q. What was the penalty—what was to be done with those who violated the oath? A. I don't know of any penalty about it.

Q. Was not the penalty death? A. No, sir.

Q. That was not? A. No, sir.

Q. You are positive about that? A. I am.

Q. Do you or do you not know whether there was not any penalty attached to that oath? A. I think not.

Q. Have you any recollection of it? A. That is my recollection of it. I am satisfied there was no penalty attached to the oath.

Q. Did you ever see it administered to anybody else? A. Yes, sir.

Q. Was the same oath administered to every person? A. To every one.

Q. How long was it? A. It was not very long—I suppose it would cover a half sheet.

Q. Was it in writing or print? A. Writing.

Q. A half sheet of foolscap you think it would cover? A. little more than that.

Q. As large as that paper [holding up a sheet of letter paper.] A. About as large as that I suppose.

Q. Were you at any other meeting? A. Yes, sir.

Q. Where abouts was that? A. It was in an old field near Deep Creek meeting house.

Q. Was that the second meeting you were in, and who was present at that meeting? A. I think myself and F. M. Blanchard and John Gant I think, I am not positive.

Q. Is that all you recollect? A. That is all I recollect—there were more there but I don't recollect any more.

Q. How many in number were there? A. Five or six.

Q. Were you at the third meeting? A. Yes, sir.

Q. Where was that held? A. That was held in the same place that the first one was.

Q. How many were present at that time? A. Some seven or eight.

Q. Do you remember any of them? A. Yes, sir.

Q. Who were they? A. Myself, Fred. Blanchard, I think, and, if I am not mistaken, William Redding was there.

Q. Is that all you recollect? A. I think William Blanchard was there.

Q. Do you remember being in any other meeting—were you present at a meeting in a pine thicket near Moore's store? A. Yes, sir.

Q. That is in addition to the other meeting? A. Yes, sir.

Q. Who was at that meeting? A. I think Henry Hurdle, myself, John Jeffries and George Faucett.

Q Was Mr. Blanchard there? A. Yes, sir.

Q. Archibald Lineberry? A. I don't recollect whether he was or not.

Q. W. F. Moore? A. I think he was.

Q. Thomas Hurdle? A. Yes, sir.

Q. Albert Murray A. I don't think he was.

Q. Will you state what was done the first night you became a member—what was done by the association? A. There was nothing done the first night I became a member except to initiate new members.

Q. Was anything said about a coffin? A. There was something said about it that night. That was all that was done.

Q. Don't you remember anything being said to make a coffin for Mr. McAdams? A. There was nothing said about making a coffin, there was something said about making a box.

Q. For what purpose—state what was said and done? A. That is all that was said, that they wanted to have one made.

Q. For what? A. That night they didn't say what.

Q. Do you say they simply proposed to have a box made? A. Yes, sir.

Q. Nothing else was said about it? A. Nothing said at that meeting.

Q. Nothing said in connection with Mr. McAdams at that meeting? A. Not at that meeting.

Q. What was to be done with it? A. There was another meeting called.

Q. Was there anything said at that meeting about whipping anybody, or going on raids? A. No, sir, nothing said.

Q. When was the time they spoke about the box or coffin? A. In the spring of 1869.

Q. Was that the second meeting that you had? A. [After hesitating.] I think that was the third or fourth.

Q. Who made the motion about the box or coffin? A. I do not know.

Q. Was George Mebane there? A. I took it to be his voice but I could not swear to it.

Q. What was the motion? A. To make a box to put at Mr. McAdams' door.

Q. Was it a box or coffin? A. A box.

Q. What sort of a box? A. It was plank nailed up about nine inches broad and four feet long, it may be not that long.

Q. Was it in the shape of a coffin? A. No, sir.

Q. What did they agree upon—what was the understanding about making it? A. It was to be put at Mr. McAdams door.

Q. What sort of a box was to be made? A. There was nothing mentioned about it only to make a rough box.

Q. Was anything said as to what purpose it was to be put there for? A. These disguised men said that he had been talking about his neighbors and to hold his tongue.

Q. You were to put the box there to make him hold his tongue—let us know exactly how it was? A. That is the substance of it.

Q. All you know is that the box was to be put there to make him hold his tongue? A. Yes, sir.

Q. Was it to be made in the shape of a coffin? A. There was nothing said about that.

Q. Did you make it? A. I can answer the question if it is admissible.

Mr. Manager SPARROW. [To the witness.] You are not bound to answer it? A. I helped to make it.

Q. Who else was with you? A. F. M. Blanchard.

Q. What did you do with it? A. We left in the shop.

Q. It was made to be put at his door? A. Yes, sir.

Q. Mr. McAdams' door? A. Yes, sir.

Q. To make him hold his tongue? A. Yes, sir.

Q. What was put on—what inscription? A. Nothing.

Q. What became of that box? A. I don't know.

Q. You do not? A. No, sir.

Q. Did you see it afterwards? A. I did not, I have never seen it.

Q. Did it stay in the shop? A. It staid in the shop two days and a night—I think two days and two nights.

Q. Did it disappear? A. Yes, sir.

Q. Don't you know who carried it way? A. I do not know.

Q. Do I understand that you don't know what became of it? A. I do not.

Q. Did you ever look for it afterwards? A. No, sir.

Q. Why did you not? A. I don't what is the reason.

Q. Was it made out of your own material? A. Yes, sir.

Q. What did you make the box for? A. Because I was ordered to make it.

Q. Who ordered you to make it? A. The camp.

Q. The camp ordered it? A. Yes, sir.

Q. Were you ordered to make a box like a coffin? A. No, sir.

Q. Who gave you directions how to make it? A. There were no directions; they just told me to nail up a rough box.

Q. What shape? A. I can mark it out to show you.

Q. How wide? A. I suppose it was four feet long as far as I can recollect, and about nine inches wide.

Q. How deep? A. The depth was just about the same as the width.

Q. How came you to make it that shape if you had no directions? A. There was no order as to the shape.

Q. Why did you make it in that shape? A. It was just a piece of plank I had there with a rough edge on it, and I took a hatchet and chopped it off.

Q. You merely made that shape because the plank was that size? A. A part of the plank was that size; I made it out of a piece of rough edged plank.

Q. Why did you make it that peculiar shape, nine inches wide and four feet long? A. That was the width of the plank.

Q. Was that the reason you made it that shape. A. That was the reason.

Q. That was the only reason you had? A. Yes, sir.

Q. Did you not know for what purpose it was to be used? A. I did not, only what they said, that it was to be put to his door.

Q. You stated in the beginning that there was something said about a coffin? A. That there was something said when I was initiated.

Q. What was talked about that night—what was said about a coffin? A. The subject came up about a box, there was nothing said about a coffin at all, that I recollect of.

Q. Did you not state a while ago that a coffin was spoken of at the time you were initiated? A. I said nothing about a coffin,—you mentioned the coffin yourself,—it was a box.

Q. You never heard it mentioned? A. No, sir.

Q. Were you ever paid for making it? A. Never.

Q. Did you ever apply to anybody for pay? A. No, sir.

Q. Did you ever try to recover the box? A. No, sir.

Q. Did you ever prosecute anybody for entering your shop and stealing it? A. No, sir.

Q. Did you charge anybody? A. No, sir.

Q. Do you know who it was who came and got it? A. No, sir.

Q. Don't you know who did? A. No, sir.

Q. Did you not know it was to be put at McAdams' door? A. I do not know except what was said in camp.

Q. What was said there? A. That was the way I understood it.

Q. Was anything said about punishing you if you did not make it? A. No, sir, I think not, I was just ordered to make it. I told them I did not want to make it; I said that Mr. McAdams was a brother mason, but they said go on and make it, it won't hurt him.

Q. Didn't the camp tell you that they had carried it to Mr. McAdams' door? A. They never did.

Q. Did William Redding or anybody else tell you that? A. No, sir.

Q. Was he a member of the camp? A. He was not a member of our camp.

Q. Was he a member of any camp? A. I suppose he was.

Q. He never told you that he had carried it to McAdams'? A. He asked me if I knew where it was carried and I told him I did not.

Q. Are those the only meetings you ever attended? A. Those are the only meetings I believe.

Q. Have you attended no meetings of the organization up to the present time since? A. No, sir.

Q. When did you quit it? A. In the spring of 1869. I have never been at a meeting since.

Q. Was it after the United States troops came there? A. It was before. They came there in the spring of 1869 and it was in the spring of 1869 I quit.

Q. You have never been in any camp since? A. No, sir.

Q. How long were you a member? A. I was a member from 1868 to the spring of 1869.

Q. Do you know of any persons being whipped by the members of the order? A. No, sir.

Q. Do you know of any decrees being made? A. I do not.

*Cross-Examination.*

By Mr. MERRIMON:

Q. Do you know of the organization being dissolved in the spring of 1869? A. I heard of it.

Q. You heard of it in the spring 1869? A. Yes. sir.

The hour of two o'clock and thirty-five minutes having arrived the court adjourned to meet to-morrow morning at 11 o'clock, a. m.

## TWENTY-NINTH DAY.

SENATE CHAMBER, March 4, 1871.

The COURT met at eleven o'clock, pursuant to adjournment, Hon. Richmond M. Pearson, Chief Justice of the Supreme Court, in the chair.

The proceedings were opened by proclamation made in due form by the doorkeeper.

The CLERK proceeded to call the roll of senators when the following gentlemen were found to be present:

Messrs. Adams, Barnett, Battle, Beasley, Bellamy, Brogden, Brown, Council, Crowell, Currie, Dargan, Edwards, Eppes, Flemming, Flythe, Gilmer, Graham, of Alamance, Hyman, Jones, King, Latham, Ledbetter, Lehman, Love, Mauney, McClammy, McCotter, Merrimon, Moore, Morehead, Murphy, Norment, Olds, Robbins, of Davidson, Robbins, of Rowan, Skinner, Speed, Troy, Warren, Whiteside and Worth—41.

Senator JONES moved to dispense with the reading of the journal of yesterday's proceedings.

The CHIEF JUSTICE put the question on the motion of Senator Jones, and it was decided in the affirmative.

JAMES E. BOYD, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BOYDEN:

Q. Please to state your name, your residence and your profession? A. My name is James E. Boyd, live in Graham, in the county of Alamance, and am by profession a lawyer.

Q. How long have you lived in the county of Alamance? A. I was born there.

Q. I desire you in your own way without being particularly questioned to give us all you know about the organizations known as the "Kuklux klan," "The White Brotherhood," "The "Constitutional Union Guard" and the "Invisible Empire,"

all you know about the number of camps in Alamance, the number of members in Alamance; their doings there, either in the way of murders, scourging or anything else; give us your history of it and an account of your joining it, and when the organization was first introduced into the county? A. The first organization I knew anything about was the "White Brotherhood." It came into my county sometime during the month of November, 1868. I think the first initiation there was the day before the presidential election in November, 1868. I was initiated into the order a few days after the presidential election in 1868, the order of the "White Brotherhood," in the room of Mr. J. A. Long, in the town of Graham. He, at that time, said to me that he was the chief of the organization in the county, and that he had the authority to organize in the county and was constituted the chief. He came to me on the street and asked me to walk to his room. I went down into his room; he asked me if I knew anything of the Kuklux. I told him I had heard of the organization as having existed in Tennessee, I knew nothing of my own personal knowledge. He then asked me to hold up my right hand and pledged me not to reveal anything which I was about to hear, which I did. He then went on to give me the obligation of the order.

Q. State what it was? A. I cannot recollect the words, but the substance was this: in the first place, that I should never reveal the name of the person who initiated me; in the second place, that I was not a member of the "Grand Army of the Republic," the "Heroes of America," the "Union League," or any other political organization, the objects of which were the civil and political elevation of the negro; and that I would obey the orders of the officers of the organization, and to resist by force, if necessary, the efforts to elevate the negroes to the civil and political equality of the white man in this country.

Q. State about the penalty, if you disobeyed? A. The penalty prescribed, as he told me, was death; that if I revealed the secrets of the members I should be the first victim.

Q. Go on and state their signs? A. The signs of recogni-

tion of the white brotherhood was by sliding the right hand down the lappel of the coat in this manner, (illustrating.) If the party to whom it was given was a member, he returned the same sign with the left hand.

Q. Go on and state if a brother was engaged in a fight, or had any trouble in his family, or any of his friends, what then? A. He could give the sign of distress, and it was understood that we were to assist each other under circumstances of that kind. There was a sign of distress which was to be given by a motion of the hand, and which I don't recollect; but in case the party needing assistance was in a situation to be unable to give that sign, the word "Shiloh" was the word of distress.

Q. Tell us, if you recollect, if there was a case in court and you were called in as a witness or juror what was to be done then? A. Well, sir, I considered the obligation of the organization to be such that we were to protect each other under all circumstances. If a member of the organization knew that another member was guilty of a crime, he could not state so in court without forfeiting his obligation as a member of the organization, neither as a witness nor upon a jury.

Q. Was that in the oath or an explanation that was given you? A. It was not in the oath. The understanding was in the explanation that we were to protect each other at all hazards and under all circumstances, and that the operations of the organization were to be kept secret under all circumstances.

Q. State if you know how they initiated a new member? A. I never attended but one meeting at which members were initiated, and that was shortly after I was initiated. I attended one meeting about a mile I suppose from Graham in the woods between Graham and Haw River. There were some fifty or sixty present, I suppose, when I was there. Most of them were disguised—all of them, I think. They formed a circle around in the woods, I suppose some fifty yards in diameter, and the member who was proposed to be initiated was brought to the camp by sentinels who were posted in the outskirts. They had different sentinels who gave signs of the approach,

by two slaps with the hands in that maner [illustrating] which were returned by the next sentinel. Then the candidate was placed in the middle of this circle which had been formed and they rushed upon him, and some one administered the oath—the party who was authorized.

Q. Can you repeat the substance of the oath? A. I did so just now as near as I can recollect.

The OATH previously produced by the witness Peter Hughes was here handed to the witness.

The WITNESS, [after reading it.] I think that is the oath of the White Brotherhood as well as I can recollect.

Q. I will call your attention to a part that is marked upon it at the bottom, [indicating to the witness the last clause in the second oath] was that a part of the oath? A. This alphabet here?

Q. No, the last part of the second oath? A. I think this is the whole of the oath as well as I can recollect.

Q. That part of it—the part of it about bearing states dence? A. Yes, sir.

Q. How is the alphabet? A. I don't recollect particularly about that but there was some different arrangement from the ordinary plan of the alphabet some letter near the middle of the alphabet, I think M or K represented A.

Q. And it went on through in that way? A. Yes, sir.

Q. How many officers were there to a camp? A. In a camp there was only one officer—the lieutenant. There was a chief of the county. I think the camps were commanded by lieutenants.

Q. How many in a camp? A. There was no specified number. I think the general arrangement was that there should be a camp in each district or township.

Q. To what camp did you belong? A. I belonged to No. 1.

Mr. BOYDEN. I think the oath should come in now and he read as it is all proved.

Mr. MERRIMON. I would like to know, Mr. Chief Justice, whether they offer that as the oath of the "White Brother-

hood or as the oath taken by this witness. Three or four witness have sworn squarely that the provision in reference to the state evidence was not in the oath of the "White Brotherhood." This is the only witness who says it was.

Mr. BOYDEN. I don't know why such a question could be asked. We put it in as the witness wears that it is the oath he took when he became a member of the White Brotherhood We care nothing about what has been sworn to by others.

The WITNESS. I intended to state this. I do not know that the exact words are there but that is the oath in substance which I took as a member of the White Brotherhood.

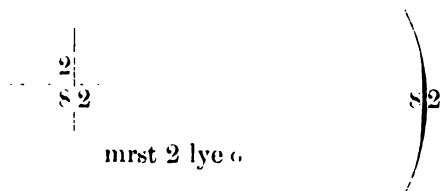
The CHIEF JUSTICE. The oath will be read.

The CLERK proceeded to read the oath as testified to by the witness in the words following:

"You solemnly swear in the presence of the Almighty God that you will never reveal what is now about to come to your knowledge and you never will reveal the names of the men that initiate you, and that you have not, and do not belong to the Red Strings, U. L., or H. of A. M., or any other political society or party whose aim and intention is to destroy the rights of the states and of the people and to elevate the negro with the white man, and you are opposed to all such orgatizations. So help you God.

2nd oath. You now further swear, in the presence of the Almighty God, that you will be true to the principle of the brotherhood and to the members; that you will never reveal any of its edicts, orders or principles to any person, not even a known brother, or that you are a member yourself or who are members, and that you will obey all calls and summons of the chief of your camp, when in your power to do so, and should any member reveal any of the acts, orders or secrets of this brotherhood, that you will assist in punishing them in any way that the camp may direct, and that you will not initiate or allow in this hrotherhood any radical, or any one who sympathizes with them or has radical views, if in your power to prevent, and should you know or see any brother or his family imposed

upon by any radical or negro, you will go to their assistance and render them all the aid in your power; or should you know them to be in immediate danger, you will immediately inform them and go to their assistance, and should you hear the word of alarm given, that you will go immediately to ascertain the cause and render all the aid in your power, and that you will never bear state's evidence against any member of this brotherhood. So help you God.




a b c d e f g h i j k l m n o p q r s t u v w x y z

6th. There shall be six (6) regular initial members in this district before they have a right to form a camp and organize.

7th. All members are requested to be suitably disguised and ready for all occasions.

8th. All members are honor bound to induce all true conservatives to join the brotherhood, in no case to mention such to another.

9th. The word of distress shall never be used by any member only in case of imminent danger or peril.

Q. You say they had an alphabet. Do you know anything about the signs? A. The signs of the meeting?

Q. Yes. A. Yes, sir, they were represented by some figures. The sign of a night meeting was by a half moon drawn on a piece of paper, and the day and hour were arranged upon it in some manner.

Q. Is it drawn upon that paper? (referring to the manuscript already put in evidence.) A. Yes, sir, that is a plan of it. I don't know upon which side the day or the hour was placed, but it was somewhat after that style.

Q. If I understand you, you say there was an explanation

besides the oath which stated as to what you were to do. A. Yes, sir.

Q. Independent of the oath you had those explanations given to you at the time you joined? A. They were explanations in regard to the manner of the organization and the plan, the manner in which the members should be disguised, and the manner in which raids should be made, and everything of that sort.

Q. Give us all? A. The disguise prescribed was a long white gown and a covering for the face and head; that no person should be punished until it had been unanimously decided upon by a camp, and that no raid should be made by parties living in the immediate vicinity of the party to be punished; that it should come from some distant camp, that only one person was allowed to speak or to be in command upon a raid, and that person should be the one who could most easily disguise his voice in order to avoid detection.

Q. You mentioned before the penalty for revealing the secrets? A. Yes, sir, that was in the explanation to me. The party who initiated me told me that the punishment generally inflicted was death, and that the informer would be the first victim.

Q. They had an alphabet something like that on the paper? A. Yes, sir.

Q. You don't recollect the letter? A. I don't recollect the letter it began with.

Q. Go on and tell how many there were in the camp? A. Well, I suppose there were seventy-five, at least, in my camp.

Q. Go on and state how many camps there were in the county? A. There were ten, sir.

Mr. BRAGG. What does the witness know about that? His evidence will have to be rejected, unless he speaks from his own knowledge.

The WITNESS. I only know from what was generally understood among the organization.

Mr. BRAGG. Don't state that. The question has been asked once before as to hearsay and it was ruled out.

Mr. BOYDEN. I don't understand that it has been ruled out if he hears it from certain chiefs of the camps—leading men.

Mr. BRAGG. He said he only understood it from report.

The WITNESS. I heard it from Mr. Long, he was the chief of the county.

Q. How many did he say there were in your county? A Ten camps.

Q. How many members did he say there were in your county?

Mr. BRAGG. That question is directly leading.

Mr. BOYDEN. I ask him how many. I don't understand that that is leading.

Mr. BRAGG. The question was how many members Mr. Long said there were. It does not appear that Mr. Long ever said how many.

The WITNESS. I don't know that Mr. Long ever stated to me.

Mr. BRAGG. The counsel will bear in mind that this is his witness.

Mr. BOYDEN. I did not intend to lead him and I do not think the question is leading.

Q. You did not hear him say how many? A. No, sir.

Q. In the county? A. No, sir, I don't recollect that I did.

Q. Did you state whether you heard the chief of any other camp in the county say how many there were? A. I can state what was the general understanding among the organization.

Q. No, I ask you if you heard the chief? A. I cannot say positively that I ever heard any of the officers, I may and I may not.

Q. You say there were ten camps. There were at least seventy-five members in yours? A. Yes, sir.

Q. Do you know Albert Murray? A. The sheriff of Alamance,—yes, sir, I know him.

Q. State whether he was a chief of any camp? A. I don't know it from him.

Q. Do you know it from any member of his camp or your camp? A. I heard Mr. Long and other members of the organization say that he was a member and chief of a camp.

Q. You mean Jacob A. Long, the chief of the county? A. Yes, sir.

Q. Of what did he tell you Murray was the chief—what camp? A. I don't recollect the number. It was the camp on Haw river and embraced the neighborhood of sheriff Murray's factory.

Q. State if you know, at what time Long told you he was a chief? A. It was after they had organized in my county—after November, 1868.

Q. State whether he was sheriff at that time? A. Yes, sir, he was elected sheriff in July, 1868. His brother was elected at the the time the constitution was submitted. He was banned by the 14th amendment and the commissioners filled the vacancy by appointing him when they met after the constitution had been accepted by congress.

Q. And there was no organization that you know of until November, 1868? A. No, sir, I don't think it existed in my county at all before that time.

Q. When he was acting as a member he was sheriff of the county? A. Yes, sir.

Q. Do you know the coroner of the county? A. The present coroner? I don't know whether we have any coroner now or not.

Q. Who was coroner then? A. Doctor Foust, I think, Doctor D. K. Foust.

Q. State whether you have any knowledge as to whether he belonged to the organization? A. I have none, sir. I don't think he did.

Q. Who was elected at the last election, do you know? A. I don't recollect. The candidate on the republican ticket was elected at the last election.

Q. State whether you know about the "Constitutional Union Guard"? A. Yes, sir, I was initiated into that sometime in 1869, I think, by Mr. James A. J. Patterson. I never attended any of their meetings. I was initiated in my office.

Q. State the objects of that organization and what connection it had with the "White Brotherhood?" A. I don't know what connection. The oaths were nearly similar. My understanding of the object of the "Constitutional Union Guard" was the preservation of the constitution as it was before the amendment.

Q. Before the what amendment? A. Before the 14th and 15th amendments.

Q. They were sworn to support the constitution as it existed before the 14th and 15th amendments? A. Yes, sir.

Q. You say that was a part of the oath? A. Yes, sir, I understood it to have the same object in view as the White Brotherhood.

Q. You state then that the oath was a good deal similar to that? A. Yes, sir, there may have been some little differences, I don't recollect in what parts.

Q. Please to state whether colored people were authorized to join either of these organizations? A. I don't think colored men could join.

Q. I want to know what was the understanding? A. My understanding was that they could not join.

Q. What do you say the difference was between the two oaths—the main difference you have just mentioned havn't you? A. I cannot tell the exact differences. I think they were very similar—there were probably some little differences.

Q. You mentioned that in this oath there was this provision which you didn't read in the other—that they were to maintain the constitution as it existed before the fourteenth and fifteenth amendments? A. Yes, sir, that was in the explanation of the Constitutional Union Guard.

Q. State if you know how numerous were the members of the

Constitutional Union Guard? A. I don't, I never attended any of their meetings.

Q. Do you know who the commanders were? A. James A. J. Patterson was the chief of the county—so he stated to me.

Q. He was the man that initiated you? A. Yes, sir.

Q. Do you know of any other who was the commander of a camp? A. E. S. Euliss was commander of a camp.

Q. State if you heard from Mr. James A. J. Patterson the number of their members in your county? A. No, sir, I did not. At the time I was initiatiated into the Constitutional Union Guard, I think it had just commenced in my county.

Q. Did they admit all ages or how about that? A. I never heard anything said about the age.

Q. Have you any knowledge touching the death or murder of Outlaw? A.——

Mr. MERRIMON. I beg to say, Mr. Chief Justice and senators, that the death of Outlaw has been gone over at least twenty times, and in the ruling of the court touching the slaying of Stevens, and it was held when the point was raised, that the court did not care about the details of any offense. The parties charged with that murder are not upon trial here. What the other side want to show is that a particular offense has been committed. The effort has been to show that this man Outlaw was hanged by disguised men, and I think at least twenty witnesses have proved that fact. I submit, therefore, whether it is worth while to consume the time of the court in going on with a matter that has been so fully testified to already.

Mr. BOYDEN. Mr. Chief Justice, that is not exactly what I want to prove. The gentleman would have done better to have waited a little instead of anticipating. I want to know whether the witness knows the fact from the Kuklux—whether they told him that they did it. We desire to show that a man told him who was a member and we propose to prove not

the fact but what the witness was told in regard to those who were engaged in it.

Q. State all you know about that—what men have told you whom you know to have been in the organization, about their being there? A. I never had but one member who told me he was.

Q. Tell who he was and all about it? A. James Bradshaw.

Q. What has become of James Bradshaw? A. He left the county when the militia came to Alamance. He was at home about the time I left for Washington, in January; I understand he has gone again.

Q. He had returned, had he? A. He told me sometime after Outlaw was hung that he was there and engaged in the hanging.

Q. He stated he was a member? A. Yes, sir, I knew him to be a member.

Q. What camp did he belong to? A. He was the chief of a camp in the vicinity of Oaks—the part of Alamance bordering on Orange county. I don't know the number.

Q. State whether he lives anywhere near Gilbraith's bridge? A. He lived beyond, from Graham some eight or ten miles I suppose. I have never been to his house, but from my knowledge of the country I think it is about that distance.

Q. Do you know anything about the drowning of Puryear from any member of the organization? A. No, sir, I do not.

Q. State all you know, if you learned anything, about Shoffner and the attempt to assassinate him—all you know about it from any member of the organization? A. It was during the adjournment of the legislature in 1869-'70. The legislature I think adjourned sometime in December—about the 20th—until the 15th or 20th of January. During that adjournment it came to my knowledge—I don't recollect how, but I think Mr. W. S. Bradshaw was at Graham and told me.

Q. State whether he belonged to the organization? A. He belonged to the organization.

Q. What did he tell you? A. He told me that it had been

decided to murder Shoffner and that it was to take place on a certain night—Saturday night I think. During the day sometime, I saw Doctor Moore in Graham and I went to him and told him that I had received information that Shoffner was to be murdered that night and I desired very mnch to prevent it if possible. He said that he would like to prevent it too, and we agreed that he should go that night. I mentioned the direction from which the parties were coming—that they were coming by Gilbraith's bridge. He said he would go that night to meet the parties and if possible to prevail on them to go back.

Q. State what sort of a night it was, whether cold or warm? It was in the winter time, I think in January. I cannot recollect, but the best of my recollection is that it was a cold night. He went I suppose. He afterwards told me he went and that he did meet parties on the route to kill him, and that he succeeded in turning them back. I told him, however, to tell the parties if he met them, that Shoffner had gone to Greensboro'. He stated to me after he came back that he did tell them that, and told them moreover that his wife was in a precarious condition, and that they would commit not one murder but probably two or three by going there on that night, on account of the condition of Mrs. Shoffner.

Q. Did he name any men that he saw? A. Yes, sir, he told me that he saw Mr. F. M. Strudwick, Abe Hedgepeth, and James Bradshaw in the crowd.

Mr. BRAGG. I do not see the propriety of going into that matter.

Mr. BOYDEN. Isn't that competent evidence to confirm the statement of Dr. Moore.

Mr. BRAGG. You didn't ask Dr Moore that question at all.

Mr. BOYDEN. Dr. Moore said expressly that he met those men.

Mr. MERRIMON. Doctor Moore said he didn't know the men he met.

Mr. BOYDEN. He said he knew Mr. Strudwick and Mr. Hedgepeth.

Mr. GRAHAM. This was the statement. He said he met a crowd and didn't know them. He went into Bradshaw's house and Bradshaw told him that Hedgepeth and Strudwick were there on a fox hunt. He didn't say he saw them in that company or that he knew any of them, and further he did not say that he saw them anywhere.

Mr. BOYDEN. Yes. He said he saw them at Bradshaw's but he did not meet them on the road.

The CHIFF JUSTICE. The presiding officer understood Dr. Moore to say that he saw them at Bradshaw's.

Mr. GRAHAM. I understood him to say that Bradshaw told him they were there on a fox hunt—not that he saw them there.

The CHIEF JUSTICE. I will ask the stenographer how it was.

Mr. UNDERHILL, the stenographer, stated that the witness, Moore, said that he saw Strudwick and Hedgepeth at Bradshaw's.

Mr. GRAHAM. This is the proposition before the court. They propose to show by this witness that Moore told him he saw Strudwick and Hedgspeth in company with those men that night.

By Mr. BOYDEN [resuming.]

Q. Just tell what he said and where he said he saw them? A. He said he met them over at the house or in the road by Mr. Bradshaw's house—thy parties *en route* for Shoffner's to commit the murder and that these three persons were in the crowd, in command I believe—that they were the leaders.

Q. Which three? A. Strudwick and Hedgepeth and Bradshaw himself.

Mr. BRAGG. If that is not contradicting their own wit-

ness I don't know what it is. How they can do that under the rule of evidence is something that I cannot clearly see.

Mr. BOYDFN. The gentleman does not seem to understand the case just as I do. We offer the testimony with this view: we call upon the members of this klan engaged in these iniquities to elicit what we can from them and we take it for granted that we have a right to show anything they have said, not for the purpose of contradicting but to show the iniquities in which they were engagod. What one of them said when he is proved to have been a member of that clan, and in view of the conspiracy to do these unlawful acts and what any one of them said during the existence of this organization and while they are carrying out these iniquities and illegal conspiracies, this court has decided is admissible. If we call up one witness and he does not tell what was said by others, we have a right to call another, not for the purpose of contradicting him at all, but to prove the fact. The other side may make what use they choose of the contradiction, it be a contradiction, but we call upon this man to state what Moore said as primary evidence against this whole organization, and Moore having declared himself one of the members, his admission we conceive is evidence against them all.

Mr. BRAGG. Mr. Chief Justice, it is quite natural to suppose the gentleman who has last addressed the court and the counsel for the managers shall not always see things in the same light. We have had the misfortune to differ very often. The gentleman has very often expressed his "surprise"—indeed, he is often in a state of surprise.

Sir, this evidence is incompetent upon two grounds. I admit the principle in relation to conspiracies and combinations to commit offences to be as the gentleman has stated, that the declarations of any one of the co-conspirators made in furtherance of the common design is evidence. That is too well settled—settled here by this court, and settled in the mind of every lawyer. But the gentleman has not thought

proper to confine himself to that kind of evidence, and has introduced Dr. Moore—made him his own witness, and called out from him all he knew about his going to this particular bridge and Bradshaw's house, and whom he saw and what was said and all about it, and has elicited in that way what he says is proper evidence, and to which we did not object. Now he comes forward, after he has put that Dr. Moore upon the stand, and made him his own witness and drawn out this evidence and says, "We have a right to show that he made a dif-"ferent statement." Upon what principle? The counsel does not controvert the principle that it is not allowed to contradict his own witness, but he shifts the ground—he blows hot and he blows cold. He says now, "We have a right to show that "he made a different statement on the ground that he is a "conspirator." But, sir, this communication to the present witness is something which took place after the transaction of which the gentlemen speaks. It didn't relate to the conspiracy at all. It had no bearing upon it, yet the gentleman undertakes now to give in evidence a statement that Moore has made as to the persons whom he saw on that night, who they were and what they were about, different from his statement when he was a witness. We submit that it is not allowable to do that after having taken Moore's own statement, as evidence. The counsel seeks to introduce proof of a matter in reference to which the witness Moore made no statement and which was not in furtherance of the common purpose at all. This is an independent matter—something in relation to which Moore had nothing to do except to go there as peacemaker, and that is another reason why he cannot be contradicted. They have thought proper to extract from him certain statements as to why he went there, what he saw and what he did. Moore was not concerned in the common design if one existed, at the time he made this statement, as alleged to the present witness to do an illegal act. It is an attempt merely to give hearsay evidence of the matter that was not connected with the conspiracy to do unlawful acts and to contradict what their own witness has

stated here in evidence by declarations which it is alleged he made subsequent to his visit to that place. I therefore submit that upon either one of those principles I have stated the evidence is not admissible.

Mr. SMITH. The other day this question was propounded: "Do you know or have you heard from members of the White "Brotherhood while it was in existence as an organization, of "any and if so, what acts of violence committed by those "members within the counties of Alamance and Caswell?" My recollection is that the senate sustained the ruling of the chief justice and admitted the testimony offered, and it was upon the broad ground that whatever was said among the members of the association during its existence as an organization was admissible; that while it had objects in view, *dum fervit opus*,—whilst the members were engaged in this plan to supercede the laws of the country and administer punishments for such class of offences as they thought proper—all the declarations and acts of parties engaged in the combination were admissible inevidence, not as admissions of fact which had transpired—not historically speaking for the purpose of showing the matter to be true which was the subject of a conversation, but admissible upon the ground that they were parts of the transaction—the dealings, the acts and the operations of this association and of its members during the interval of two years of its existence, and had its objects to accomplish, and in reference to which they were in their consultation. We think this case falls within that principle, and that we are conforming ourselves to the rule of the senate in admitting this evidence.

Again, I think my colleague [Mr. Boyden] was right in th view he took in the first instance. The fact that another witness, Dr. Moore, has not stated the language as it is stated by this witness, will not prevent the admission of this proof at all. No party is precluded from proving by another witness a different state of facts.

Mr. BRAGG. I admit that, but the declaration was that of your own witness.

Mr. SMITH. This is the statement of this witness as to what Dr. Moore said to him, and it is competent without any reference to the testimony of Dr. Moore on this trial. It is evidence coming from a party whose acts and words associated together identify him with this conspiracy, and with its objects and purposes. I do not see, therefore, how the fact that one witness may have differently testified from another deprives us from showing what the fact really is, or that such words as stated were uttered as part of the transaction under inquiry.

Mr. MERRIMON. It is upon a principle of law that a party cannot contradict his own witness.

Mr. SMITH. Yes, sir, we can.

Mr. MERRIMON. There is no principle of law or precedent for that. They may show (and the rule is very strict) that their witness is mistaken. It would be competent to show that, but the rule is always applied with great care.

Now, Mr. Chief Justice, they have introduced the witness Moore here, and he has proved a particular state of facts. They cannot now impeach him, nor can they contradict the statement of fact made by him, especially where his own declarations are the facts to be spoken of. They have introduced this witness, and for what? They ask about Dr. Moore's declarations. Which is the more reliable, the memory of Dr. Moore, or that of this witness. These gentlemen are both introduced by the other side. They are bound by the statement of Moore touching his declarations, and even that they could hardly be allowed to explain. Then, sir, I ask how is it pertinent to ask the witness this question—how is it competent? Only in the single view to confirm what Moore said. If this testimony is not to confirm him, how is it competent for any purpose at all? It certainly is not competent to contradict him.

Mr. BOYDEN. Mr. Chief Justice, the gentleman (Mr. Merrimon) does not seem to understand this question yet. It will be recollected by the senators that there was no question asked Dr. Moore as to what he had told James E. Boyd. We now ask, not with a view of contradicting Dr. Moore, what one

of these conspirators said as to what took place on the very night, or shortly after the attempt was made to carry out their purpose. The witness Moore testified as to a conversation between him and Boyd at the Shops, but never alluded to what he said to him a short time afterwards.

Mr. GRAHAM. Mr. Chief Justice and Senators, the right of a party to introduce more than one witness to prove a particular state of facts is not disputed. If any body went and saw this company besides Mr. Moore, it would be perfectly competent to introduce that person as a witness, and his statement though varying from Moore's would still be admissible. But the question here is whether a narrative given by Moore, after the transaction is over, to this witness, can be repeated by this man here. We say it cannot. In Greenleaf on Evidence the doctrine is laid down in substantially these terms, that even among conspirators special care must be taken to exclude the declarations of one by way of narrative after the transaction is past. Now, here, there is no evidence that Moore was any conspirator. Certain persons it is alleged had this design upon Shoffner. Moore in the first place was not a conspirator because he went for the purpose of preventing the consummation of the act; but if he were a conspirator, the circumstance that they propose to prove, to wit: that Moore had told this witness or made a statement after this transaction was passed is not competent. It is nothing but hearsay. There is better evidence of the fact to wit: the evidence of Moore.

Mr. McCORKLE. Mr. Chief Justice, the proposition before the court is simply this. It is proposed to ask this witness what conversation he had with Dr. Moore as to whom the latter met at Bradshaw's, and all matters connected therewith. Now, the learned counsel [Mr. Graham,] asserts that there is no evidence before this court that Dr. Moore was a co-conspirator. If that be true, then I concede that we would not have the right to ask the question; but my friend must have forgotten the declarations of Dr. Moore himself, and the statements of several other witnesses that he was a member of this organization.

If then he was a member of this organization, and if its objects were such as detailed by Hughes, by Boyd and by others, then Dr. Moore was a co-conspirator, and even if he went to this man Bradshaw with the view to prevent the parties belonging to that organization from committing a crime at that time, the fact can have no bearing upon this question. My friend has once referred to the celebrated Lord George Gordon riot cases. After the flames had been kindled, after he had incited the populace to acts of violence it was proposed to show that Gordon did all he could to restrain it. But the court held that, he having given origin to the riot—having been engaged in an unlawful act, whatever resulted from that unlawful act, whether he acceded to it or not, did not prevent him from being held responsible equally with those who engaged in it. That being the case, where then is the difficulty in admitting evidence of the declarations of Dr. Moore. He has been proved to be a co-conspirator.

The gentleman says we cannot contradict our own witness. We have a right to do this—at least we have the right to show what statement he made to other persons. There can be no doubt about that. How is the case of the prosecution to be prejudiced by it? We have had to go into their own camp and place upon the stand enemies to good order and government, and we propose merely to show what one of these co-conspirators said as to whom he met, and what was the object of the meeting. Certainly it is not done with the view of contradicting him, but for the purpose of eliciting the truth.

The CHIEF JUSTICE. The presiding officer is of opinion that the evidence should be heard. This court ruled a day or two ago that whatever one member of this organization communicated to another while the conspiracy was going on was competent as tending to encourage each other in wickedness. But in this case it seems that one of the members came to another with the statement that a certain deed was to be done. They agree that one of them shall go and prevent it and afterwards he returns and reports to his fellows what he

said and saw. That clearly comes within the ruling of the senate. For instance, suppose Bradshaw had told Boyd that Moore came there and remonstrated with those who were about to carry the plan into effect and that they thereupon gave it up, certainly, in that case, the statement of Bradshaw to Boyd would be evidence, and the fact that Mr. Moore has been examined, and that it [might have the effect to impeach him, it seems to me, does not make anexception so as to rule out what Moore said when it would be competent to give what Bradshaw had said in evidence.

By Mr. BOYDEN [resuming].

Q. State now what he told you? A. I think it was on Saturday night when he went down—and I didn't see him any more until Monday evening. When he came back, I merely asked him if he had met the parties, and had turned them back, and he said he had. He said that he met them, I think, in the road at Jim Bradshaw's house, and he succeeded in turning them back. I asked him who were there, and he said Mr. Strudwick, Mr. Hedgepeth and Mr. Bradshaw were the leaders of the crowd.

Q. Did you have any talk with Bradshaw about this matter? A. No, sir.

Q. Did you have any talk with any other member of the organization? A. I cannot recollect that I did.

Q. Go on and state whether you know any whipping by members of the knan, of your own personal knowledge? A. I was not present at any whipping and I don't know myself except from information I received from the members of the organization. I know there were numerous whippings done in my county.

Mr. BRAGG. Speak of your own knowledge.

The WITNESS. I have seen some parties who were whipped.

Mr, BRAGG. You will confine yourself to what you know.

Q. You may speak of those you have seen whipped if you know of any or have been informed by members of the organization there? A. I have seen Caswell Holt. I know he was

whipped. I know it from the members of the organization and from him also that he was whipped.

Q. Don't tell what he said. Did you see any marks upon his person or did any member of the organization tell you about it? A. Mr. Long told me that Trollinger's camp whipped Caswell Holt.

Q. Which Long? A. J. A. Long.

Q. Go on and speak of others? A. He told me that George Anthony's camp whipped Joe Harvey.

Q. Go on and give others? A. I can not state in any particular instance who told me about these persons being whipped. A great many were committed. It was generally understood——

Mr. BRAGG. You have been told not to say that.

Q. You have stated what Mr. Bradshaw told you about his being theae when Outlaw was hung? A. Yes, sir.

Q. Did he tell you of any other person who were there? A. No, sir, he did not.

Q. Where were you on the night Outlaw was hung? A. I was at home in Granam at my fathers' house, my father was sick that night, he is paralyzed and we were setting up with him. Doctor Murphy was there.

Q. What did you hear? A. I think I was asleep at the time. Doctor Murphy who was there went out and said, the next morning ——

Q. Were you a candidate last year? A. Yes, sir, I was.

Q. Never mind that; did you here any noise? A. No, sir, I did not know anything of it until the next morning, when a negro came in ——

Q. Can you tell who commanded the different camps in the county—have you heard from any members of the organization? A. Yes, sir, I have heard from the members of the organization.

Q. [By Mr. Bragg.] Who? A. Mr. Long, by reason of my living in the same town, and we talked about these matters frequently; and I may have heard from others.

Q. What Long? A. Jacob A.

Q. What others? A. I have heard James Broadshaw say that he was chief of a camp. I have heard from Long that J. B. Trollinger was a chief, and George Anthony was a chief, and sheriff Murray was a chief. I have heard A. P. Faucett, commonly called Job Faucett, say that he was chief of the camp in McCrea's township, and I have heard Broadshaw and Faucett themselves say that they were chiefs.

Q. Did they say anything about how many they had in their camps? A. No, sir, not that I recollect.

Q. Were you a candidate last year? A. Yes, sir, I was.

Q. Of what party? A. The democratic or rather the conservative party. I was nominated but never made any canvass.

Q. I wish you to state if you learned while you were a candidate from members in these organizations in different parts of the county how numerous they were.

Mr. BRAGG. Mr. Chief Justice, the question is directly leading.

Mr. GRAHAM. I submit that they should let the witness state the persons.

Mr. BOYDEN. I have not stated the names in deference to the wishes of the gentleman, because that certainly would be leading.

Mr. GRAHAM. I think, Mr. Chief Justice, that the question is improper. The witness is asked whether he learned while he was a candidate from persons belonging to the organization certain facts.

The CHIEF JUSTICE. The number in a particular camp.

Mr. GRAHAM. We submit that that is not competent. The question put is whether in the progress of a canvass made by the witness, he learned the number of members through conversations. I submit that that is equivalent to asking general rumor.

The CHIEF JUSTICE. The presiding officer thinks it is competent to prove by the witness that in travelling through the county and communicating with the members of this organization the number there were in their respective camps.

Mr. BRAGG. What is the question?

Mr. BOYDEN. The question is this: did you learn from members of this organization the number in the different camps and how many there were in the county.

The CHIEF JUSTICE. Each one speaking for his own camp.

Mr. MERRIMON. Mr. Chief Justice, it was expressly ruled the other day by the presiding officer that rumors as to the number in these organizations were not competent.

The CHIEF JUSTICE. The presiding officer ruled that the question could not be asked unless the witness had the means of information. If the witness talked with a member of a camp and that member gave him the number in his own camp, the presiding officer does not think with that restriction, the question interferes with the previous ruling.

Q. Did you ever hear from members as to the number in their own camps? A. I cannot state that I have heard it said by the members of different camps how many there were in their camps.

Q. State what you know of the organization of the "Invisible Empire" in the county, and whether you were a member of it? A. I hardly conceive that I am a member. I don't know that it existed in my county and I don't think it did. I may say I can't remember that I have ever taken an oath as a member of it.

Q. Do you know why the organization took the name of "The White Brotherhood" instead of the Kuklux? A. In explanation it was stated that the name by which the public should recognize them was the Kuklux, but that the real name was the White Brotherhood, so that if a person was put upon the stand and asked if he was a member of the Kuklux he could state with truthfulness that he was not, the other being the real name.

Q. The "White Brotherhood" was the real name and not the "Kuklux?" A. Yes, sir.

Q. Take this list of names contained in the articles, being

the men who were apprehended by Kirk, and state who belonged to the organization? A. Shall I state them as I read them off?

Q. Yes, sir. A. George S. Rogers, Walter Thornton, William Redding, John Andrews, Adolphus G. Moore, Lemuel Whitsett, Ruffin Andrews, Henry Cook, William Andrews, James H. Anderson, Jefferson Younger, Clement Curtis, John G. Albright, Robert Hannah, Thomas Lutterloh, John Gant, James Foust, J. E. Moore, James T. Hunter, John R. Strickland—these are all I believe to be members on this list.

Q. Do you know any more from having head them say so? A. By having heard them say so themselves?

Q. Yes, sir. A. I don't think I do.

Q. Do you know any other members of the "White Brotherhood" or "Constitutional Union Guard" by exchanging the signs of the order with them and without hearing them say anything? A. I cannot say that I do.

Q. Did any of those belong to the Constitutional Union—do you know the fact from hearing them say so or otherwise? A. No, sir, I do not.

Q. Do you know anything in reference to Stevens being murdered from any man whom you know was a member of the order or who told you that it was about to take place, if so just mention it? A. Do you mean before or after?

Q. Before and after, what you heard just before or just after the murder.

Mr. GRAHAM. There is no evidence, Mr. Chief Justice, before the court that Stevens' murder was committed by this organization at all.

Mr. BOYDEN. That is just what we are going to prove.

Mr. GRAHAM. I have not heard an allegation yet that the murder was by the organization.

Mr. BOYDEN. We propose to prove by the witness facts which tend to show that it was done by these men. It has been proved that he was murdered in the court house at Yanceyville in the day time, and I desire to prove by the wit-

ness that he heard members of the order immediately after that say it was done by the organization.

Q. Will you answer the question? A. I had heard nothing before the murder. Stevens' body I believe was found on Sunday morning; on Monday evening Mr. Long——

Q. What Long? A. Mr. J. A. Long and myself were down near Mr. Hunter's store. I heard that Mr. Joseph A. Long had come from the shops where he had learned that Stevens had been murdered. That was Monday evening. Mr. Long and I went to the gate posts by Mr. Hunter's store and he told me that Mr. Dickey who was at that time reading law with Judge Kerr at Yanceyville, had been to Graham and told him that it had been arranged——

Q. Was Dickey one of the Kuklux? A. Yes, sir, he had gone over to Yanceyville to read law.

Q. What did he say? A. He said that Dickey was there eight or ten days before said it had all been arranged.

Q. That who were to murder, the Kuklux? A. The Kuklux. I understood Dickey was a member.

Q. He told you that this was all arranged some eight or ten days before? A. Yes, sir.

Q. And that Stevens was to be murdered? A. Yes, sir.

Q. Who told you that he had got the information that it had taken place? A. Mr. Joseph A. Long had been to the Shops where he had learned that Stevens had been murdered.

Q. Did I ask you whether you knew anything about the murder of Puryear? A. I don't know anything about it.

Q. State a conversation that you had with Josiah Turner as to the Kuklux, and all that took place between you and him.

Mr. GRAHAM. We object to the question, Mr. Chief Justice. Mr. Turner has been examined and no such question was put to him.

Mr. BOYDEN. I am asking to contradict the testimony of Mr. Turner. He was their witness, and I imagine that we have a right to contradict him. I want to prove a conversation the witness had with him shortly before the election.

The CHIEF JUSTICE. The objection is that you did not call Mr. Turner's attention to the conversation so as to lay the foundation to contradict him. It is upon the rule that where the purpose is to impeach the testimony of a witness, you must call the attention of the witness to the conversation, so that he may have an opportunity to explain it.

Mr. BOYDEN. I don't ask the question, Mr. Chief Justice, with the view to impeach Mr. Turner.

Mr. Manager SPARROW. What do you wish to ask him about?

Mr. BOYDEN. A conversation that the witness had with Mr. Turner about the Kuklux.

Mr. GRAHAM. We don't wish any conversation stated. We object to the proof.

The CHIEF JUSTICE. It will violate the rule to ask the witness in reference to the conversation. The presiding officer cannot see how it would be relevant except to impeach.

Mr. BOYDEN. We will waive the question for the present and have Mr. Turner called up.

Q. Do you know how the Kuklux, or these organizations managed to procure horses for their raids? A. I suppose they generally took their own.

Q. There was no arrangement among the organization? A. No, sir.

Q. I think you have stated that when a camp decreed the punishment of some person living within it, another camp punished? A. Yes, sir.

Q. Do you know any thing about the placing of coffins at houses from any of the members of the organization? A. No, sir, I cannot say I heard any of them say anything about it?

Q. Did you hear from a member of the organization that one was put anywhere? A. I think, probably I have, but I cannot state the member.

Q. Can you state that you heard it from a member? A. I think I can.

Mr. GRAHAM. We submit, Mr. Chief Justice, that the

name of the member should be given, in order that we may contradict the witness, if we can.

The CHIEF JUSTICE. The presiding officer thinks that the witness should state the name.

Mr. BOYDEN. But the witness says he cannot.

Q. State what you know of a meeting being called in the county of Alamance directly after Outlaw was hung, and what you heard any of the Kuklux say—I don't care about mentioning the name? A. I don't understand your question.

Q. First I will ask yon if you had a meeting called shortly after the death of Outlaw? A. Yes, sir.

Q. Tell all you know about that, and if you had any conversation? A. There was a paper gotten up, signed by a number of citizens, calling a meeting. It was called for Saturday, and there were a good many persons came in, but no meeting was held.

Q. Tell what was the reason—tell what was said by any particular individual. A. The reason, as I understood it, was because the military had come into the county in the meantime, and the citizens refused to hold any meeting under the circumstances, the military being present.

Q. Did you have any conversation with a man named White about it? A. I was at the corner of the street when a young fellow came up to me. I didn't know who he was, though I might have seen him before, and he said ——

Q. [By Mr. Graham.] Was his conversation about this meeting. A. No.

Q. I desire to know if you were met by one of these Kuklux, and what he said to you about the Kuklux having been out the night that Outlaw was hung, and about some of their number being apprehended by the military.

Senator WORTH. Mr. Chief Justice, I desire an explanation. I understood the rule to be established that the statements of the parties could not be admitted, unless it could be shown that he was a member of the organization.

Q. [By the Chief Justice.] Was this White a member of

the organization? A. I did not know him to be a member.

Q. Did you find out that he was a member. A. No, sir.

Q. Do you know what has become of this man White?

Mr. GRAHAM. We object to any statements in reference to White.

Mr. McCORKLE. We submit that the question propounded by my associate is different from the one on which there has been a ruling by the court. Here it is asked and it is proposed to show that a particular individual admitted that he was one of the parties that had been out a few nights before, referring to the time when Outlaw was hung. It strikes us that it is wholly immaterial whether he was a member of the Kuklux organization or not. If any person admitted to the witness that he was concerned in the perpetration of that murder, it surely would be competent without regard as to whether he was a member of that organization or not. The question which we propose to ask the witness certainly goes to show the truth of the allegations in the answer of the respondent that the outrages were numerous in the county, and that the civil authorities were powerless to execute the laws. Suppose a dozen different persons, not members of that organization, had told the witness that they knew about the murder of Outlaw and were there and aided in it, would not that be germain to the question before the court?—would it not be competent in this point of view to show that there was such a state of lawlessness in that county that the governor might well believe it was a case which required the interposition of the military under the provisions of the Shoffner act?

Mr. GRAHAM. But, Mr. Chief Justice, the witness states that this persons was a stranger to him and that he didn't know anything about him except as he inquired afterwards. The testimony offered is so remote that it cannot be classed among facts proper to be put in evidence at all.

The CHIEF JUSTICE. The presiding officer thinks that the evidence is not competent without showing, under the rule, that this man White was a member of the organization.

Q. Do you recollect a meeting about the first of January, 1870, or sometime shortly after that, when certain resolutions were passed? A. Yes, sir.

Q. Tell us all you know about that meeting? A. There was a meeting held sometime in January during the adjournment of the legislature. It was a meeting at which those resolutions were passed which I think I saw in Colonel McAllister's testimony.

Q. Do you know any individuals who composed that meeting or its officers? A. If I could see the proceedings I could tell.

Q. You were there? A. Yes, sir, I was.

Q. What we desire to know is whether any of the members of that meeting and if so how many belonged to the Kuklux order?

Q. [By the Chief Justice.] Those that you knew to be members of the White Brotherhood? A. I don't recollect distinctly who were there. There was a large crowd. I was there myself and I was a member.

Q. Do you know who the officers were? A. I think Jesse Gant was chairman.

Q. Did he belong to the order? A. He didn't belong that I knew of. J. A. Long and J. L. Scott were secretaries. They were both members. I don't recollect who the persons were that were present; there was a large crowd of people there.

Q. Two of the officers then belonged to the Kuklux? A. Yes, sir.

Q. You don't think Jesse Gant belonged? A. I don't think he did—if he did I didn't know it.

Q. State whether Doctor Moore addressed the meeting and whether anything was said about Shoffner? A. I think Dr. Moore made a speech.

Q. Was there any denunciation of Mr. Shoffner? A. There were resolutions introduced in reference to the Shoffner bill. I don't recollect the particular resolution but it was a resolution in denunciation of the bill.

Q. State if there was any talk against Shoffner, and if so, whether it was bitter or not? A. Yes, sir, he was denounced on account of having introduced this bill.

*Cross-Examination.*

By Mr. Merrimon:

Q. When were you licensed to practice law? A. I was licensed in the county court in June, 1867, and I was licensed to practice in the superior court in 1868.

Q. Did you take an oath as an attorney? A. Yes, sir.

Q. When and where? A. I took the oath I think at Graham.

Q. Before whom? A. William A. Albright, the clerk of the superior court. Judge Tourgee was on the bench.

Q. What oath did you take? A. I took an oath to obey the constitution of the United States and the constitution and laws of North Carolina, and to perform the duties of an attorney faithfully to my clients, I believe. I don't recollect the wording of the oath exactly.

Q. Did you ever hold any office in this state? A. No, sir.

Q. Did you ever take an oath to support the constitution before that? A. I think I did. I voted first in 1866 and I took an oath to support the constitution of the United States and the constitution and laws of North Carolina not inconsistent therewith.

Q. Was that before you connected yourself with the White Brotherhood. A. It was.

Q. State whether afterwards you received a license authorizing you to practice in the superior court? A. I did in June, 1868.

Q. Did you take any oath in pursuance of that license? A. don't think I ever took any oath as an attorney in the superior court. I came in without any oath.

Q. Were you not sworn in? A. I don't think I was. It was overlooked probably.

Q. Were you sworn when you registered to vote? A. Yes, sir. I was sworn when I was admitted as a lawyer in the

the county court. I was licensed to practice in that court before the county court was abolished, in the meantime, however, I think—no ——I was going to state that I thought the legislature had provided that those who practiced in the county courts were allowed to practice in the superior court, but I think that was not so.

Q. Was it after you were a qualified attorney and registered as a voter and took the oath you have described to the court here? A. Do you mean the oath as a member of the White Brotherhood?

Q. Yes, sir. A. It was.

Q. It was after? A. Afterwards. I was licensed in the superior court in June, 1868, and I was sworn into the White Brotherhood in November 1868.

Q. I understand you to say that the oath which has been read was the one which Mr. Long administered to you in his office? A. I think it is.

Q. Have you any doubt about it? A. I think I have not. There may be some different words, but the substance is about the same.

Q. You swear unequivocally that this contains the substance in all particulars of the oath you took? A. I think it does.

Q. Do you swear positively that this clause was in it: "That you will never bear state's evidence against any member of the Brotherhood?" A. I will not swear that these words were there, but they were in the oath or the explanation.

Q. Will you swear that that was substantially in the oath? A. I think it was in the oath or the explanation.

Q. What do you mean by the explanation? A. After the oath was administered there was a long explanation in regard to the manner of operation, and the duty and responsibility of members, &c.

Q. Did the oath bind you to that explanation? A. I understood it so.

Q. Was there a clause in the oath binding you to observe the explanation? A. I cannot say that there was.

Q. You didn't consider the oath bound you to observe the explanation? A. I thought so.

Q. Not to give State's evidence against a member? A. I thought so.

Q. Do you swear, furthermore, that either the oath or the explanation required you to resist the civil and political advancement of the negro, and if need be by force? A. I think I did.

Q. Do you swear you took it? A. Yes, sir.

Q. Did you furthermore swear that you would swear to lies if any of the brotherhood should be charged with crime in court in order to have them acquitted when they were charged according to the law? A. I understood I was not to reveal the secrets of the organization under any circumstances.

Q. Answer my question? A. That was my understanding.

Q. I understood you to state to the court that you swore in the oath that you would commit perjury in order to successfully defend a member of the order from a charge? A. I don't swear that was in the oath.

Q. Did you learn that from the explanation? I swore not to reveal the secrets of the organization under any circumstances.

Q. How did you get your understanding? A. From the person who initiated me.

Q. Who was that? A. Mr. Long.

Q. Did he tell you, if you were called into court to testify against a member of the White Brotherhood you were to swear to a lie in order to prevent his conviction? A. He did not.

Q. Where did you get your information from? A. From the words of the oath and explanation, because I considered that no man could go into court and divulge the secrets of the order.

Q. You did? A. I understood that that was one of the instances under which he could divulge the secrets of the order if he was put on the witness stand.

Q. I want to know if you learned from Mr. Long that under

the oath or the explanation that he gave you, if you were called upon to testify against a member of the White Brotherhood you were to testify falsely? A. I can only say what I said before that having taken the oath to become a member of the organization I could not reveal the secrets under any circumstances.

Q. Did he tell you so? A. That is a part of the oath, that I would never reveal the secrets.

Q. Did he tell you then that if you were called into court you would have to swear falsely? A. No, sir.

Q. Did he say anything, or that he left that impression? A. I inferred that from the oath.

Q. You didn't get any instructions from him to that effect? A. No, sir.

Q. Did you get it from any instructions from anybody in the White Brotherhood? A. I cannot say that I did.

Q. What you have stated you were bound to do as a member of the White Brotherhood in favor of a member you infer from the language of the oath? A. And from the nature of the organization, because the plan was that the secrets were not to be revealed.

Q. Was that an inference of yours? A. Yes, sir,

Q. You inferred it from this oath? A. Yes, sir.

Q. Nobody told you so? A. No, sir, they did not.

Q. Did Long or anybody else in the neighborhood tell you that if you were on a jury at any time when a member of the Brotherhood was charged with crime you were to find a false verdict? A. They did not.

Q. Then you inferred that from this oath? A. Yes, sir, and from the nature and plan of the organization.

Q. You got that as an inference? A. Yes, sir.

Q. Nobody ever told you so? A. No, sir, I cannot say that they did.

Q. When did you join the organization? A. In November, 1868.

Q. How long did you stay in there? A. I suppose I might

be considered a member up to the time I published the letter last summer.

Q. Was it your understanding from the first time you joined that you were commit perjury, and find false verdicts in the interest of a brother from the time you went in? A. I felt as soon as the oath was administered, and the nature of the organization explained that it had a bad object in view.

Q. I don't want to debate it. Did you have that impression from the time you joined this organization that you were to commit perjury, and find false verdicts in favor of persons in the brotherhood who perpetrated crime? A. I understood when I was initiated that I was to keep the secrets of the organization under all circumstances.

Q. That is equivocating. Answer my question. Did you at the time you joined this organization think you were to commit perjury, and find false verdicts and perpetrate these crimes in pursuance of the requirements of the brotherhood under the oath you had taken? A. I didn't know exactly at the time I joined that any circumstances would arise of that kind which would make it necessary.

Q. Do not argue the matter. Suppose anything had arisen, you understood at that time you were to do these things? A. I understood if a member was guilty of crime I was to protect him.

Q. By perjury? A. I think so if necessary.

Q. By false verdicts? A. That is my inference from the nature of the oath and the explanation.

Q. By killing men? A. Yes, sir, I think so.

Q. And whipping them? A. Yes, sir.

Q. And drowning them? A. Yes, sir.

Q. And by any other means that might be devised? A. Any means to protect the organization and maintain its secrets.

Q. You went in in November, 1868? A. Yes, sir.

Q. And stayed in until July, 1870? A. Yes, sir.

Q. You say that you were cognizant of these things all that time? A. Which?

Q. This obligation you took about perjuries and false verdicts? A. I don't know of any perjuries being committed or false verdicts rendered, or that any of them were on trial.

Q. Would you have committed perjury in behalf of a member? A. I would not.

Q. How were you going to keep your oath? A. I would not have kept it under circumstances of that kind.

Q. Did you swear you would? A. Yes, sir, I did, or rather I drew that inference from the oath and explanation that that would be required of me.

Q. Did you practice law and attend to your profession during the whole time? A. Yes, sir.

Q. In the courts regularly? A. Yes, sir.

Q. With this oath resting on your conscience? A. Yes, sir.

Q. When did you abandon the brotherhood? A. I abandoned it as far as possible some considerable time ago.

Q. I ask you when you abandoned it formally—when did you cut loose from it, so that you were under no obligation? A. In July, 1870.

Q. Under what circumstances? A. The public disclosure I made of my connection with it.

Q. State all the circumstances? A. I published a letter in July, 1870.

Q. I want you to tell what was done—how you happened to publish the letter, and all about it? A. I was a candidate for the general assembly in my county. I was arrested by the militia on the 15th July.

Q. Who do you call the militia? A. Kirk's command. I suppose it was the militia.

Q. What day? A. The 15th or 16th July.

Q. What did they do? A. I was in my office, and Burgen came there with twenty-five men and arrested me.

Q. What did he say to you? A. I was sitting in my back office, or rather in the yard, and I saw a file of soldiers coming, and I went in the rooom, and I saw a man come. I said, "Good morning; come in." He said, "Is your name Boyd?"

I said, it was. He said, "I arrest you." I said, "By what authority?" He said, "By the authority of the governor of the state." I said, "I would like to see it, sir." I don't think he made any reply, but called two sentinels, and placed one on each side, and told me to go along, and I did.

Q. What did he do with you? A. He carried me to Company Shops and kept me that night, and the next day carried me to Yanceyville, or rather we started for Yanceyville Saturday evening and got there Monday evening. I was kept there a day or two, and then came back over to Raleigh.

Q. How did you happen to come back to Raleigh? A. I had some friends who interested themselves in my behalf.

Q. Who were they? A. Squire Albright—W. R. Albright.

Q. Which is he? He is a man they call "Red eyed," that is the way they distinguish them.

Q. He interested himself for you? A. Yes, sir.

Q. How came he to do it? A. I suppose ——

Q. Did he talk to you about it at Caswell? A. No, sir, not until he came back there after he had been to see the governor.

Q. What did you say to him? A. I told him I had no disposition to conceal anything I knew about the Kuklux.

Q. How did you happen to tell him that? A. I was talking to him.

Q. How did you happen to talk to him? A. He came to the Shops while I was there.

Q. He came to you at Company Shops? A. Yes, sir, while we were in camp.

Q. Who first made the proposition to divulge, you or Albright? A. I made it myself.

Q. What did you say to him? A. I didn't tell him much; I told him that he might tell the governor that I had no disposition to conceal anything that I knew about it. Kirk told me directly after I got to the Shops that I had been arrested as a witness. I told him when I was put on the stand in a proper way I would not hesitate to tell all I knew about it.

Q. Did you send him to see the governor? A. No, sir, he came himself.

Q. Did you ask him to see the governor? A. I think probably I did.

Q. He came on to see the governor in pursuance of that understanding? A. Yes, sir.

Q. You expressed a willingness to divulge what you knew? A. Yes, sir.

Q. What did they do? A. They brought me to Raleigh.

Q. What did they do with you after you had an interview at Company Shops with Albright? A. They carried me to Yanceyville.

Q. What happened there? A. Nothing particular that I know of except that I was kept there a day until Albright came back.

Q. What did he say to you? A. He said that the governor wrote a letter to Colonel Kirk which has been published, and said if I could satisfy him he might release me.

Q. If you could satisfy him he would release you? Yes, sir.

Q. What else did he say? A. I don't recollect. The letter was published I think.

Q. I mean what did Albright say to you about coming down here? A. Kirk refused to release me and he sent me down under the charge of Burgen.

Q. What did Albright say to you when you returned from the governor—I want to know all he said? A. I don't recollect positively what he did say.

Q. State the substance? A. I can't recollect the conversation exactly. He said that the governor was willing to show me any favor if I would do my duty in the matter.

Q. What do you mean by the duty? A. Make an honest statement.

Q. If you would come down to Raleigh and make a expose of the whole matter he would turn you loose? A. That was my understanding that he would turn me loose. That was

the understanding after I came down here, and I was turned loose after I come.

Q. What happened there first? A. I cannot recollect.

Q. Did the governor send a proposition by Albright which he communicated to you to the effect that if you would come down and divulge, he would turn you loose? A. I think that was the substance of his message.

Q. Then you came? A. I did.

Q. Did you tell any fellow prisoner you were coming? A. They knew I was coming to Raleigh.

Q. Did you tell them you were coming? A. Yes, sir.

Q. Did you tell them you were coming here to make a statement? A. No, sir.

Q. You did not tell any one but Red-eye? A. I think not

Q. Did he come with you? A. He did and Burgen.

Q. Which way did you come? A. I came by the Shops I came to Company Shops and went home a few minutes. I got there early in the morning, changed my clothing and came on the 10 o'clock train, I think.

Q. What time did you reach Raleigh? A. About four o'clock in the evening.

Q. What did you do then? A. I came to the National hotel.

Q. Who did you see there? A. I don't know that I saw any one there particularly.

Q. Was Red-eye and Burgen with you? A. Yes, sir, they were still with me.

Q. Did you see any official connected with the governor's office there? A. I don't think I did.

Q. When did you see the governor first? A. In his office.

Q. How did you get there? A. I think I went there; I don't know whether I was accompanied or not.

Q. What time did you go there? A. It was some time shortly after I got there.

Q. That is the same evening? A. Yes, sir.

Q. State in substance the particulars of your interview with

the governor? A. I said to him what I said before that I had no disposition to conceal anything I knew about the organization. I went on and gave him the same statement in regard to the general nature and object of the organization which I have given here.

Q. Did he ask you to make a written statement? A. I think he did probably—I don't know either—I don't know that he did that evening.

Q. Did you talk that evening about making a public statement—a written statement? A. No, I think not.

Q. Did you tell him that evening what you afterwards published in a card to the public? A. I think I told him probably in substance.

Q. How long did the interview last? A. It lasted a half hour I suppose.

Q. Where did you go then? A. I took the train that night and went home.

Q. Where did you go from the executive office? A. I went back to the National hotel I think.

Q. Whom did you see there? A. I don't know that I saw any one in particular.

Q. Had you made the application or had anybody made an application for the *habeas corpus* to the chief justice? A. I had not made any. I think there was an application made.

Q. Did you see your counsel that day at all? A. I think I saw Mr. Parker. Yes, I had spoken to him about it at Company Shops the day I was arrested.

Q. Did you see anybody else? A. I saw Governor Graham that night, who was the general counsel, I believe, of the prisoners.

Q. Did you see anybody else as counsel? A. I don't recollect that I did.

Q. Did you see me [Mr. Merrimon] there? A. At the National hotel?

Q. Yes, sir? A. It is very probable I did. I don't recollect.

Q. What did you do that night before you left to go to Company Shops? A. I do not know.

Q. Did you write any card and authorize its publication in any daily paper in this city, and if so what about it?

Mr. SMITH. I object to any evidence in reference to that, without the production of the card.

Q. Is this the card you published? [handing the witness a document being the third annual message of Governor Holden and referring him to the card that was printed on page 220.] A. That is about the substance of the card I published. I think it is probably the same.

Q. Will you state to the senate what you said in that card? A. That is the card.

Q. Read it then.

The WITNESS read the card in the following words:

"A CARD.

"I learn that it has been reported on the streets at Raleigh, "that I had been liberated from my confinement by Col. Kirk, "because I had been giving information as to crimes committed "in Alamance, involving the guilt of other parties. I take this "method of correcting this report. I have neither given nor "promised to give any such information, and possess none "that I could communicate. I was liberated upon no such "grounds, but upon giving a bond for my appearance, and "keeping the peace, prescribed by military authority.

"JAMES E. BOYD.

"July 20, 1870."

Q. Was that true? A. No sir.

Q. The card was not true? A. No, sir, some part of it.

Q. The part was not true in which you stated you had made no statement? A. Yes, sir, and that I possessed no information in regard to crime that had been committed.

Q. Why did you make that false statement? A. I was

afraid to go home with that report before me that I had made such a statement.

Q. Was not Kirk's army there? A. Part of it was.

Q. How soon after that did you decline longer to be a candidate for the legislature? A. About two or three days.

Q. How long did you stay at home without coming back here? A. I did not stay more than three or four days.

Q. How did you happen to come back? A. I talked with some of my friends, members of the organization, and we concluded that it would be best to break up the thing there and let the people know all about it. In consequence of that there was a publication signed by sixteen of us. I came back to Raleigh.

Q. Who sent for you to come back to Raleigh? A. Nobody that I know of.

Q. Did you get any communication from the governor? A. No, sir.

Q. From any agent of his? A. No, sir.

Q. Did Red-eye have anything to do with your coming back? A. I think he did.

Q. When you came back what did you do? I staid here several days.

Q. Where did you stop? A. At the National hotel.

Q. Did you see the governor there? A. I don't think I did.

Q. Did you see any agent of his? A. I don't know whom you call his agents.

Q. Anybody connected with his office? A. Gen. Douglas was stopping at the hotel at that time.

Q. What office did he hold about the capitol here? A. I think he was a sort of brigadier-general—or something of that kind—of the militia, I never saw his commission.

Q. What did he say about a publication that he wanted you to make? A. I don't think he said anything about a publication he wanted me to make. I proposed to make a publication myself.

Q. Did you see the governor? A. I think I did when I came back.

Q. What time did you get here that day? A. I don't know which train I got in on, whether it was three in the afternoon or four in the morning.

Q. You saw the governor you say? A. Very lickley.

Q. I don't want "very likely?" A. I think I did.

Q. What did you and the governor talk about when you came there that day? A. I think mostly about the Kuklux.

Q. Did he ask you to prepare a written statement? A. don't know that he did.

Q. I want you should say "yes" or "no"?' A. If I recollect aright I came back with the intention of publishing the letter which was published.

Q. Did the governor talk to you about it? A. Yes, sir.

Q. Did he ask you to publish it? A. I don't recollect.

Q. Was it published before the election? A. A few days.

Q. Did the governor ask you to publish it in view of the election? A. I don't think he did.

Q. Are you sure of it? A. I am as sure as my memory serves me.

Q. Why did he want it published at that time? A. I don't know that he wanted it published.

Q. Did he ask you to publish it? A. I don't think he did. I told him I was going to publish it.

Q. Didn't he examine and read it? A. Yes, sir.

Q. Where did he read it, in the National hotel or was it brought to the executive office? A. General Douglas brought it to him.

Q. Were you present when the governor examined it. A. I don't recollecl whether I was or not.

Q. Did you make any alteration in it after he saw it? A. Nothing except to add the last section of the letter.

Mr. SMITH. Are you examining about the card which has been read in evidence.

Mr. MERRIMON. No, sir, the other one.

Mr. SMITH. Then we object to it.

The CHIEF JUSTICE. The presiding officer takes it for granted that it will be offered.

Mr. MERRIMON. We will produce the letter.

Mr. BOYDEN. The letter is to be found in the letter book, do you consider it offered.

Mr. SMITH. We object to the witness being asked any question about any paper unless it is shown him.

Mr. GRAHAM. The witness has only been interrogated in reference to a conversation he had about the paper.

Mr. SMITH. But you have been asking him questions about its preparation.

The CHIEF JUSTICE. If the couusel are going into it at all the presiding officer thinks that it ought to be produced.

Mr. GRAHAM. The only question is whether there were any corrections in the paper made in the executive office. We have not gone into the contents of the paper.

The WITNESS. There were no alternations or corrections made there.

Mr. SMITH. I desire to call the attention of the court to section 463 of I Greenleaf, which I will read :

"A similar principle prevails in cross-examining a witness "as to the *contents of a letter*, or rather paper written by him. "The counsel will not be permitted to represent, in the state- "ment of a question, the contents of a letter, and to ask the "witness whether he wrote a letter to any person with such "contents, or contents to the like effect ; without having first "shown to the witness the letter, and having asked him "whether he wrote that letter, and his admitting that he "wrote it."

The CHIEF JUSTICE. The witness says that there was no alteration so that the question becomes immaterial.

Q. You prepared a paper? A. I did.

Q. You did that under the supervision of the governor? A. The governor was not present.

Q. Were you in communication with the governor? A. I

had been. I talked with him before and after the publication.

Q. You did make a publication? A. I did.

Q. That was just before the election? A. It was.

Q. Who was present when you drew that paper up? A. I think there was no one present at the time. It was in Mr. Douglas' room that I wrote it.

Q. What did you prepare it in Mr. Douglas' room for? A. He had pen, ink and paper and I didn't have any in my room.

Q. Was he present when you prepared it? A. I think he was a part of the time.

Q. How long were you preparing it? A. I suppose I was in there an hour and a half or two hours.

Q. How did you come to withdraw from the canvass as a candidate? A. Because I could not get along occupying the position I did just about that time.

Q. You thought you wouldn't be elected? A. I did not think there was much probability of it.

Q. Who advised you to withdraw? A. Nobody.

Q. You did it of your own motion? I did.

Q. I ask you if the people didn't require you to withdraw? A. No, sir, they did not as I know of. I withdrew voluntarily. I was waited upon by two of the executive committee and asked if I intended to continue the canvass and I told them I did not.

Q. You say you made a formal withdrawal from the White Brotherhood? A. That was my public withdrawal.

Q. What did you do after that in aid of the governor in his war up there? A. I don't know that I did anything.

Q. Did you become of counsel of the governor in connection with in the matters in Caswell and Alamance? A. I did.

Q. What did you do as counsel?

Mr. SMITH. Mr. Chief Justice, I submit whether the witness is required to answer or whether the law will permit the witness to state communications that passed between him and the governor as counsel and client.

Mr. GRAHAM. Mr. Chief Justice, we have shown that

the witness occupied the position of a candidate—a public man in the service of one of the political parties and he subsequently made revelations in reference to an organization with which he was connected and went into the service of the governor. It is proposed now by the counsel that he should have the privilege of an attorney of the governor, and be allowed to decline answering questions put to him Sir, the counsel for the governor is the attorney-general of the state, and the governor has no right, that I know of, to engage the services of other counsel.

Mr. SMITH. That, Mr. Chief Justice, does not affect the question of communications made between counsel and client which have always been held to be inadmissible in evidence.

The CHIEF JUSTICE. The presiding officer does not yet understand that the relation has been established by proofs. [To the witness.] Did the governor pay you a fee?

The WITNESS. A. Yes, sir.

Mr. BRAGG. The witness was not paid a fee out of the private funds of the governor, but he was paid out of the public purse. That makes a different state of things.

Mr. SMITH. The governor is on trial here personally, and what has happened between him and his counsel is not admissible. It would be unsafe for clients to consult with their counsel, if their communications are made the subject of disclosure.

Mr. BRAGG. Mr. Chief Justice, we think that this presents a very different case from the ordinary relation of counsel and client. Here, as we understand it, this witness made certain revelations, and he was at once taken into the pay of the governor of the state, who is now on his trial on articles of impeachment. We say that this does not constitute the ordinary relation of client and counsel. The governor is authorized to have counsel in the person of the attorney general of the state, who is a public officer, and, sir, if the attorney general were brought to the stand here we would have the right to question him, and he would be bound to answer any pro-

per question, and he could not refuse to answer upon the ground that he sustained the relation of counsel to the governor. I would ask him could the witness be placed in a different position from the attorney general. He was hired and was paid out of the public treasury without any authority of law—employed for what purpose we do not exactly know, and we want to find it out, and it is claimed that he and the governor occupied the relation of counsel and client. We deny it. If employed at all, he was the counsel of William W. Holden, governor of North Carolina, and the fact that he has been paid out of the public treasury does not establish the relation between him and W. W. Holden as an individual.

Mr. McCORKLE. It makes no difference, Mr. Chief Justice, whether the governor as an individual employed the witness, or whether he employed him in his representative capacity as governor, the relation nevertheless existed between them of attorney and client, and wherever that relation does exist communications made from one to the other have always been held to be inviolate. The doctrine is laid down and is familiar to the court, but I ask leave to call attention to I. Greenleaf, sections 236 and 237:

"There are some kinds of evidence which the law *excludes*, "or dispenses with, *on grounds of public policy*, because "greater mischiefs would probably result from requiring "or permitting its admission than from wholly rejecting "it. The principle of this rule of the law has respect "in some cases, to the person testifying, and in others, to "the matters concerning which he is interrogated; thus inclu-"ding the case of the party himself and that of the husband or "wife of the party, on the one hand, and, on the other, the "subject of *professional communications*, *awards*, *secrets of* "*state* and some others. The two former of these belong more "properly to the head of the competency of witnesses under "which they will accordingly be hereafter treated. The latter "we shall now proceed briefly to consider.

"§ 237. And in the *first* place, in regard to *professional*

"*communications*, the reason of public policy which excludes "them applies solely, as we shall presently show, to those be-"tween a client and his legal adviser, and the rule is clear and "well settled, that the *confidential counsellor*, solicitor or "*attorney* of the party, cannot be compelled to disclose papers "delivered, or cammunications made to him, or letters or en-"tries made by him in that capacity. "This protection," says "Lord Ch. Brougham, "is not qualified by any reference to "proceedings pending or in contemplation. If touching mat-"ters that come within the ordinary scope of professional em-"ployment, they receive a communication in their professional "capacity, either from a client or on his account and for his "benefit, in the transaction of his business, or which amounts "to the same thing, if they commit to paper, in the course of "their employment on his behalf, matters which they know only "through their professional relation to the client, they are not "only justified in withholding such matters, but bound to with-"hold them, and will not be compelled to disclose the informa-"tion, or produce the papers, in any court of law or equity, "either as party or as witness."

"§238. "The *foundation* of this rule," he adds, "is not "on account of any particular importance which the law "attributes to the business of legal professors, or any particular "disposition to afford them protection. But it is out of regard "to the interest of justice, which cannot be upholden, and to "the administration of justice, which cannot go on, without the "aid of men skilled in jurisprudence, in the practice of the "courts, and in those matters affecting rights and obligations, "which form the subject of all judicial proceedings."

That being the case, the proposition of the counsel for the managers is simply to violate that well known fundamental rule of evidence. Their proposition is to make the witness reveal communications that were made to him by the governor. What reason do they give for this extraordinary course? They tell us that the governor, under the laws of the state, must consult the law officer of the state, the attorney-general, and that

he has no right to employ anybody else. Sir, my friends are wofully mistaken. There is an act of the legislature passed in the session of 1855–'6, which expressly authorizes the governor to employ counsel whenever the exigencies of the state demands it. He and he alone is the judge of that. That being the case how can the managers come in and destroy this relation, and make this witness reveal communications made to him in his relation of counsel to the governor. Sir, they would have just the same right to place me upon the stand and compel me to testify as to any facts the governor had communicated to me since I have been retained. They know well they cannot do any such thing and yet the proposition which they make is precisely the same.

Mr. MERRIMON. Mr. Chief Justice and Senators, the rule which the gentleman cited has no application to the proceeding here. That rule applies to the case of counsel to a private individual and only to cases of that sort. The governor has no secrets from the people. He is the agent of the people—their servant—and he has no right to have counsel touching matters that affect them. The case of the counsel of a public officer and the case of the counsel to a private individual are entirely different and hence the rule which has been cited is altogether inapplicable here. If the attorney general were introduced here to-day he would be bound to testify, if called upon by this court in reference to the advice he gave to the governor. Our constitution prescribes who shall be the legal adviser of the governor, and he is the attorney general. I will not say that the governor might not, on extraordinary occasions employ other counsel, but if he does so and that other counsel advises him in reference to any particular public transaction—a matter that affects the interest of the public, the people of the state through their representatives in the general assembly have a right to know what transpired between them. If it shall turn out that this witness was a paid counsel aiding the attorney general in advising the governor, we have a right to know what he ad-

vised him about and the suggestions which the governor made. They cannot be secret. Why do they not produce the letter-book in the executive office? If the governor had placed in that letter-book the opinions of the attorney general, as he ought to have done, would we not have a right to produce them if it would be of any benefit? That is a part of the official action of the governor and the rule which applies between attorney and client cannot apply in this case because the governor is a servant and agent of the public and if this witness was counsel for the governor he was counsel, in point of law, for the people of the state; and their representatives have a right to know what the governor said to him and what advice he gave to the governor.

Mr. SMITH. The last remark of the counsel, Mr. Chief Justice, I think has no application to this question. The gentleman asks why are private and public letters spread upon the governor's letter book admissible in evidence if this evidence is not. What is required to be put upon the letter book are not communications between counsel and client. The official communications of the executive authorized and required to be put upon that book are by statue made evidence; so all the official act of the governor which relate to the public well-being are proper subjects of inquiry, and communications between the counsel and governor are proper subjects of inquiry. But the point here is this: that an attorney who is a private person and not an officer of the state as the attorney-general is, and to whom the governor confides facts, cannot be the means of bringing those facts before the court.

Mr. MERRIMON. But in this case it is a public matter.

Mr. SMITH. That does not alter the case because the relations between them were those of counsel and client, and as far as the counsel are concerned they are precisely the same as existed between counsel and private individual. I think it is the duty of the court not to permit the witness to disclose—he not being an officer of the state—communications confided to him by anybody, president, executive or any other officer.

But it is charged by the managers that the acts of the governor were all outside of his duties as governor, and that his conduct in reference to these counties which he declared to be in a state of insurrection was lawless and wrong, and the managers proceed upon that theory, and upon that they claim the conviction of the governor. Surely then communications between him and his counsel stand precisely upon the footing of any other communication between client and counsel. Our objection is that this witness is a private counsel, and not an officer authorized by law like the attorney general of the state, and that he acted in the way of advising the governor just as his counsel are acting in this cause, and this being so the law will not allow him to betray that which passed between them in the privacy and unreserved intimacy which grows out of that relation that secrecy is to be maintained between them. The secret communications between a spiritual adviser and penitent are permitted to be disclosed when the evidence becomes material on a trial, and the law does not protect them as privileged and confidential communications from being exposed, when necessary to the ends of justice.

The CHIEF JUSTICE. I would like to have the counsel read what the authority says in reference to state secrets.

Mr. SMITH. Greenleaf at section 236 says: "The principle of this rule of law has respect in some cases to the *person testifying*, and in others to the *matters* concerning "which he is interrogated; thus including the case of the "party himself, and that of the husband or wife of the party "on the one hand, and on the other the subject of professional "communications, awards, secrets of state and some others. "The two former of these belong more properly to the head "of the competency of witnesses under which they will "accordingly be hereafter treated. The latter we shall now "proceed to briefly consider."

Then he goes on to speak of what are privileged communications, and what are not, but the general rule l id down

is that professional communications between counsel and client are not to be divulged.

Mr. GRAHAM. Mr. Chief Justice, secrets of state stand on the same footing with a military order issued by the president or by the governor when he may be in command. All these are to be revealed if it becomes necessary in an inquiry as to any executive officer whose conduct is the subject of investigation. General Emery, who commanded the district at Washington, was compelled to testify on the trial of President Johnson as to a private interview between him and the president involving an exceedingly delicate secret. The imputation was that President Johnson called upon General Emery to inform him what number of men he had there, and the inference sought to be drawn was that he intended to resist the action of congress. General Emery was compelled to disclose the whole matter. Here it stands upon a totally different footing. The people of the state are the client. The governor was their attorney in fact who employed an attorney in law and it is the constituent—the principal enquiring into the conduct of their agent, and we submit that there can be no secrets between an agent and his attorney in law not liable to be enquired into by the principal.

Mr. BOYDEN. Mr. Chief Justice, I have some authorities here cited in Harrison's Index, volume 2, page 1046:

"Communications in official correspondence relating to mat-
"ters of state cannot be prodvced in evidence in an action by
"an individual against a person holding an office for an injury
"charged to have been done in the exercise of the power given
"to him as such officer, not only because such communications
"are confidential but because their disclosure might betray secrets
"of state policy which might be injurious to the interests of the
"country, nor can an extract be admitted relating to the particu-
"lar matter because the whole must be read or none."

Then there is cited Anderson vs. Hamilton, 8 Price, 244, 6 Moore, 593, and other cases in support of the doctrine.

Then there is this:

"Communications which take place between the governo
"of a distant province and his attorney general are confi-
"dential, and if a witness is interrogated in a court of justice
"he is not bound to answer any questions respecting them."
Upon that there is cited Wyatt vs. Gore, page 259.

Then there is this laid down:

"Where the commander-in-chief directed a military inquiry
"to be held to investigate the conduct of a commanding officer
"in the army who afterwards sued the president of such
"inquiry for a libel stated to be contained in his report;—
"*held* that such report was a privileged communication and
"properly rejected as evidence at the trial, and that an office
"copy thereof was inadmissible."
Upon that point the authorities are cited.

It seems to me Mr. Chief Justice that if anything is clea under these authorities it is that this evidence cannot be offered when it is conceded on the other side that the witness was employed to advise with the attorney general.

Mr. BRAGG. What the witness said was that he was paid out of the public treasury.

Mr. BOYDEN. The witness made no such statement. He said he was employed by Governor Holden, and that he had been paid a fee.

The CHIEF JUSTICE. It was the counsel, Mr. Bragg, who stated that the witness was paid out of the public treasury.

Mr. BOYDEN. I am aware that he said so. It was not stated so by the witness. The authorities which I have read sustain our position out and out, and go I say much further than we contended for. It seems to me then that the statement of the witness being that he was employed by the governor as counsel, and was paid by the governor and that he acted as his counsel, he cannot be compelled to make any disclosures of communications that passed between himself and his client.

Mr. Manager SPARROW. Mr. Chief Justice, I desire to say a few words in reference to the matter under considera

tion. The legislature of North Carolina made two enactments —one to prevent men going disguised and masked, and another known as the Shoffner act, authorizing the governor, under certain circumstances, to declare counties in insurrection, and to call out the militia of the state to suppress outrages in these counties. It is claimed here by the governor that, under this authority, he, as governor, was authorized to declare these counties in a state of insurrection, and to put down certain outrages by military force. That is exactly the presentation of the case as it appears before the court. In pursuance of this the governor has called to his aid several counsel, and among others the witness upon the stand, and we expect to show upon the cross-examination of the witness that, as appears by the auditor's report now upon the desks of senators, that he was paid for these services out of the public treasury. This is not the case of a private individual who employs counsel. If it was, we would not pretend that we had any claim to ask the question of the witness; but, sir, the governor was acting in his official capacity, and when he calls to his aid counsel, we claim that we have a right to know all about it.

The CHIEF JUSTICE. The presiding officer is of opinion that it is not shown that the relation of client and attorney did not exist between the governor and the witness, and if the evidence is inadmissible at all, it would be upon the ground that their communications were in the nature of state secrets, and the presiding officer has not yet seen any evidence going to sustain that view.

By Mr. MERRIMON, resuming.

Q. You say you were employed by the governor as counsel? A. I was, sir.

Q. What sort of services did you do? A. I was in the room with the other lawyers, Messrs. Boyden, Bailey and Badger. I did some clerical service.

Q. Did you do anything up in Alamance? A. No, sir, I think not. I probably wrote some affidavits of persons. I think I did.

Q. What sort of affidavits? A. Those of persons—members of the organization, who came up to make affidavits. I wrote some.

Q. Where were they? A. They were in Alamance.

Q. Did you go up there to get their affidavits? A. No, sir, not for that purpose.

Q. What did you go up for? A. I went home.

Q. Did you suggest the arrest of anybody? A. I don't think I did—no, sir.

Q. Did not suggest the arrest of anybody? A. No, sir.

Q. When were you first employed? A. It was sometime after my publication.

Q. How long afterward? A. After the election, sometime.

Q. How long after the election? A. Well, sir, it was several days after the examination had commenced before the justices of the supreme court.

Q. How did the governor happen to employ you? A. I don't know, sir. I think it was upon the suggestion of some gentleman.

Q. Why? A. I don't know, sir.

Q. [By Mr. Smith]. State what you know about it. A. I don't know that. He just told me to remain here and assist these gentlemen in any way that I could.

Q. Was one purpose of employing you to hunt up evidence? Were you not to hunt up the evidence in Alamance? A. I don't know that he stated that, sir.

Q. Was that one of the objects? Did you gather that from what was said and done? A. As I stated, I don't think the governor stated what particular service I was to do.

Q. I ask you if you gathered it from what he said at the number of interviews you had and the course of conduct? A. He wanted me to do whatever I could in order to succeed in the investigation here.

Q. Were you very active in hunting up evidence in Alamance? A. Not extraordinarily so.

Q. How active were you? Did you go backwards and

forwards up there? A. I don't think I went more than once.

Q. What did you go for? A. I don't think I went back any more until the examination was closed.

Q. What was the special object in employing you? There must have been some special object—what was it? A. He never stated any.

Q. How much did you demand as a fee? A. I demanded $500.

Q. Did you get $500? A No, sir.

Q. How much? A. $250.

Q. Was that paid out of the public treasury? A. I got a check from Mr. Jenkins on a warrant from the governor.

Q. The governor made a warrant on Mr. Jenkins? A. Yes, sir.

Q. Did you ever offer to pay that money back to the governor? A. No, sir, I offered to refund it to the treasury.

Q. What did you do that for? A. Because I knew the newspapers would publish me about it, and I had been published about enough.

Q. You got scared then? A. No, sir, I did not think that I had not earned it.

Q. Your conscience wasn't easy about it? A. Perfectly easy.

Q. Still you say you offered to pay it back to the treasury? A. Yes, sir.

Q. And the governor would not take it? A. I never saw the governor myself.

Q. Did you have any agent to see him? A. I asked Mr. William A. Smith to see him?

Q. And see if he would take it back? A. Yes, I told him I would replace it in the treasury.

Q. And the governor said he would not take it? A. I believe so.

Q. How did you happen to ask $500 if you thought your services were worth only $250? A. I thought my services were worth $500, sir.

Q. Did you make any argument before the court? A. I did not, sir.

Q. Did you examine any witnesses? A. I did not.

Q. What did you do—anything? A. I did some clerical services—filled up some warrants and delivered them to the marshal.

Q. How many? A. I do not know.

Q. How much time did it occupy? A. I was here some two or three weeks. I was engaged more or less every day.

Q. In the consultations between you and the governor, about the time that you wrote the card you spoke of having written a while ago, was the subject of politics discussed, at all? A. I don't know that they were, sir.

Q. Was anything said about the political state of things in Alamance? A. I don't think there was.

Q. I wish you would remember about that. A. There may have been. I don't know. The principal subject of our conversation was the Kuklux.

Q. I ask if there was any special subject—whether or not the matter of politics and the approaching election was not discussed by you and the governor? A. It may have been. There was something said about it.

Q. Don't you know there was? A. I don't recollect, sir.

Q. Don't you remember that the effect of your letter upon the popular mind was discussed? A. That might have been.

Q. Don't you know it was so? A. I don't remember distinctly. It very probably was.

Q. Aren't you sure it was, on reflection? A. I cannot remember positively.

Q. Reflect. Don't you think it was? A. I say it probably was.

Q. That is your best impression? A. I say it probably was talked about.

Q. Will you say it is your best impression that it was discussed? A. No, sir, I cannot say that. I say, I don't recollect distinctly whether it was or not, but I think it probably was.

Q. How many days before the election did your paper come out? A. I think it came out the 28th of July. The election was the 4th day of August.

Mr. SMITH. We object to anything that is in the paper unless you produce it.

Mr. MERRIMON. I do not ask for the contents of the papers.

Mr. SMITH. But you have talked about it already. I do not object to any of the papers at all, or the legal proceedings.

Mr. MERRIMON. We have talked about papers and legal proceedings ever since this trial commenced, and I have never heard any objection before.

Mr. SMITH. But this letter has not been produced. I was under the impression that it had, but my associates understand that it was not. We object to anything being stated about the date of that letter or anything else unless it is produced, and the witness has an opportunity to see it.

Mr. MERRIMON. The other day a question was raised in reference to certain magistrates' warrants and records, and the chief justice ruled that it was competent to speak of them, because we did not propose to show what the contents were. We do not offer to show what are the contents of this paper. We simply ask the witness to state a particular thing—whether he wrote that paper under the supervision of the governor.

Mr. SMITH. One point is, that the witness should not be asked about that letter unless it is shown him. It is his letter. It does not stand upon the footing of other testimony, where the question of written or parole testimony arises. It is the witness' own letter, and he has a right to see it and look at it before he is asked any questions about it.

The CHIEF JUSTICE. The presiding officer understands that they do not propose to ask anything that is in that letter.

Mr. SMITH. They have already done it. They have asked about adding to it and changing the contents.

The CHIEF JUSTICE. What do you propose to ask the witness now? Anything more in regard to the letter?

Mr. MERRIMON. No, sir.

The CHIEF JUSTICE. If you don't you are talking without any particular object.

Mr. MERRIMON, [resuming:]

Q. Since the examination before the judges here, last summer, have you been very active in the interest of the governor? A. No, sir, I could not say that I have.

Q. Have you recently been on a visit to Washington in his behalf? A. I was summoned there as a witness before the Committee on Southern Outrages.

Q. What else did you do? A. I went to Washington, sir.

Q. What else did you do? Did you go before you were summoned? A. No, sir, I was telegraphed for by the sergeant-at-arms of the senate.

Q. How long did you stay after you were examined? A. I staid there, I think, two weeks.

Q. What were you doing there? A. Well, I was staying around there.

Q. What else besides staying around? A. I cannot say—I did a good many things.

Q. Well, I want to know whether you did not, in the interest of the governor, examine witnesses from day to-day, in a room for that purpose, to go before that Outrage Committee to influence this prosecution here? A. No, sir, I suggested some questions to ask of witnesses who did come before them.

Q. Didn't you do it a good many times? A. I did in three, four or five instances.

Q. Did you furnish the names of the witnesses to be examined? A. I did not.

Q. Never? A. I don't think I did, sir.

Q. What do you mean when you say you examined witnesses, to come before this committee? A. No, sir. I say I suggested some questions to be asked of witnesses.

Q. To whom did you suggest that? A. I think they were sent down probably by Mr. Holden.

Q. Which Mr. Holden? A. J. W. Holden.

Q. Did you and J. W. Holden have an office in the capitol? A. We didn't have an office. There was a room in which the witnesses staid.

Q. Did you occupy it—were you there often? A. I was there every day; probably missed a day or two while I was in Washington?

Q. For two weeks? A. Yes, sir.

Q. Were the witnesses examined there before they were sent in to the Outrage Committee? A. Yes, sir, I think some were talked to there.

Q. If they didn't suit were they sent off? A. No, sir.

Q. Were all the witnesses that went into that room sent to the Outrage Committee? A. I think they were. I never examined any witnesses there.

Q. Did you hear anybody else examining them? A. I heard gentlemen in the room talking to them as to what they knew.

Q. Did you stay there in the interest of the government. A. No, sir, I did not.

Q. In whose interest did you stay? A. In my own.

Q. For what purpose? A. I wanted to justify myself in the course I had taken.

Q. In what respect? A. To force other witnesses to tell the truth, as I have done.

Q. How did you accomplish it by staying there? A. I suggested questions.

Q. For two weeks? A. Yes, sir.

Q. That was your business? A. Yes, sir.

Q. What was Mr. Holden doing there?

Mr. SMITH. We object.

Mr. MERRIMON. I will withdraw the question.

Q. Who paid your expenses? A. I paid them partly myself.

Q. Who paid the balance? A. Col. Carrow loaned me some money.

Q. Who is Col. Carrow? A. Col. Samuel T. Carrow, U. S. Marshal.

Q. Did any body else let you have money? A. I think I borrowed some small amount from Mr. Joe Holden.

Q. I ask you if you were not paid a fee there? A. No, sir, I was not.

Q. Were those loans or advances? A. Loans, sir. I gave my note to Marshall Carrow for the amount I borrowed from him.

Q. Have you taken an interest in suggesting witnesses to counsel and to the respondent in this very trial? A. No, sir, I have not been here.

Q. No matter whether you have been here or not. You could do that in Washington as well as here. A. I have not suggested a single witness on the trial, that I know of.

Q. Not one? A. No, sir, I think not.

Q. Haven't you suggested any questions to be propounded to witness? A. No, sir.

Q. At no time and no place? A. No, sir, not here—I mean in this trial. You are talking about this trial?

Q. Yes. A. No, sir, I have not.

Q. I ask you whether in the spring of the year 1869, you and Mr. Long and Mr. Bason did not discuss the propriety of dissolving the White Brotherhood? A. I think we did, sir—yes, sir.

Q. I ask you the further question whether you do not know thate V ı ite Brotherhood was formally disbanded in the spring of 1869? A. Yes, sir.

Q. And they no longer had an organization in Alamance county? A. That is what he told me, sir.

Q. Did you object to it? A. No, sir, I insisted upon it.

Q. I ask you again whether you attended a meeting of the Kuklux between Graham and Haw River, or any other place, in which it was proposed, and by you, that the Kuklux should go to political meetings, nominate the chairman and the officers of the meeting so that they could control its proceedings? A. I think I stated something of that kind—the only meeting I ever was in——

Q. What was the proposition you made? A. My proposition was that the organization should control the politics of the county.

Q. That was your proposition? A. That was about the substance of it.

Q. Describe that, will you? A. That they should have the chairman, secretary and members of the committee, &c., and the nomination, and therefore hold the offices.

Q. What was the object—to control the nomination? A. Yes, sir.

Q. Were you to let the public generally know that? A. No, sir.

Q. What became of that proposition in that meeting. A. I don't whether it was voted upon or not.

Q. I ask you if you do not know that it was voted down almost unanimously, everybody voting against it but yourself? A. I cannot recollect, sir.

Q. I put you on your guard. I ask you the question whether that proposition was not voted down, you being the only one who voted for it? A. I don't think I voted alone, if I voted at all.

Q. Wasn't it voted down? A. I don't recollect, sir.

Q. What is your best impression? A. I cannot say—I cannot remember how it was disposed of.

Q. Who opposed it first? A. I don't know. There was a good large crowd there, and I know the matter was talked about.

Q. Was it adopted? A. I don't recollect whether it was or not.

Q. You cannot recollect a matter of such moment as that? A. I do not, sir, it may have been voted down, or it may not, or it may not have been voted upon at all,—merely talked about. I recollect I said something about it, and other members who were present did too. That was when the organization was first commenced in our county.

Q. You were the author of that proposition, weren't you? A. I think likely I was.

Q. I ask you if you did not state before the judges last summer that you never were in any Kuklux meeting? A. I did, not, sir, I stated that I was in one.

Q. That is not the point. Didn't you state to the court—the chief justice—last summer, that you never were in any Kuklux meeting? A. No, sir, I didn't. I stated I was in one between Graham and Haw river—the only one.

Q. I want to ask you a little about that meeting at Alamance. You say you were in that meeting? A. I was, sir.

Q. Were you chairman of the committee who reported the resolutions? A. I think I was.

Q. Did you make a speech? A. A short one, I think.

Q. Did you denounce the Shoffner act? A. Yes, sir, I think I did.

Q. Was anybody else there but the Kuklux? A. Oh, yes, there were a good many there that I don't suppose were Kuklux.

Q. How many Kuklux were there? A. I have no idea.

Q. Half a dozen to your knowledge? A. I cannot recollect who were present there except the officers of the meeting.

Q. Cannot you give an impression? A. No, sir, I cannot say what particular persons were there.

Q. At the time you were a candidate did you tell the people that you belonged to the Kuklux organization? A. I did not, sir.

Q. You professed to be a democrat, didn't you? A. I did—a conservative, rather.

Q. You said nothing about being a Kuklux? A. I did not.

Q. You did not tell the people that you belonged to an organization to overturn the country? A. No, sir, I did not. I never made but two speeches whilst I was a candidate——

Q. You concealed that, did you? A. I did.

Q. A part of your purpose was to get into the legislature to overturn the country? A. No, sir, it was not.

Q. Didn't you expect to carry out the obligation you had taken as a Kuklux? A. I did not.

Q. You did not intend to do it? A. Not to that extent I didn't.

Q. Did you seek the nomination, and were you active in it? A. Yes, sir, I electioneered some for it.

Q. Do I understand you that T. C. Lutterloh belonged to the organization? A. He did.

Q. Do you swear that? A. Yes, sir, he told me so.

Q. Is that the only evidence you have got of it? A. That is all.

Q. When did he tell you so? A. I don't recollect. I have talked to him a time or two about the organization.

Q. State any time and place that he told you so? A. Well, at one time he told me so in Graham, I recollect. I was there on one occasion and we were talking about it. He told me he was a member, and I talked to him as a member.

Q. Did he give you any signs, or anything by which you knew him to be one, outside of his mere declarations? A. I think not, sir.

Q. How did he happen to tell you about it? A. Well, he knew, I suppose, that I was a member, and we talked with each other as such. He was not afraid to approach me.

Q. I want you tell the court a little more about the distinction between the White Brotherhood and the Constitutional Union Guard. A. Well, sir, I stated that I thought the oaths were very similar. I never heard the oath of the Constitutional Union Guard but once.

Q. Who administered that to you? A. James A. J. Patterson.

Q. Who is he? A. He is a gentleman who lived in Alamance—a farmer.

Q. Is he there now? A. No, sir, he is in Washington now.

Q. He administered the oath to you? A. He did.

Q. Now, sir, I ask you this: Do you swear to the court that that oath contained a provision that whoever took it should support the constitution of the United States as it was before any provision was made for the civil and political rights of the colored race? A. That was not in the oath, sir.

Q. I ask you if Mr. Patterson gave you that as a part of the instruction? A. I think he did, sir.

Q. I don't want any "thinks" about it. I put you on your guard now. I ask you to say to the court whether or not Mr. Patterson gave you an instruction to the effect that your oath bound you to support the constitution as it was before the civil and political rights of the colored race were provided for? A. I said that was not in the oath.

Q. Well, the instruction? A. Yes, sir, I think he did.

Q. Do you swear that he did? Will you say it is so? A. He told me this, that the object of the organization of the Constitutional Union Guard was to secure the old constitution before the amendment.

Q. Before that amendment? A. Yes, sir.

Q. That the object of the Constiutional Union Guard was to re-instate the constitution? A. Yes, sir.

Q. As it was before the adoption of the fourteenth amendment? A. The fourteenth and fifteenth.

Q. Are you sure of that? A. Which?

Q. Are you sure that the statement you make now is correct? A. That he stated that to me?

Q. Yes. A. Yes, sir.

Q. You make it unqualifiedly? A. I have no doubt about it.

Q. You are satisfied with your answer? A. I am.

Q. You say that Mr. Long told you that Mr. Dickey told him—they both being members of the White Brotherhood—that provision had been made for the dispatch of Stephens? A. That was after Stephens was killed, sir.

Q. How long after? A. His body was found Sunday

morning, I think, and this was Monday evening—this conversation.

Q. Where did that occur? A. At a gate post near the corner of Mr. Hunter's, in Graham.

Q. Monday evening did you say? A. I think it was Monday evening; it may have been Tuesday evening, but it was upon the reception of the news there that Stephens had been killed.

Q. I ask you if the chief justice last summer did not ask you this question: "Have you heard any of your klan say any-"thing about the death of Stephens?" and did you not reply, "I don't recollect, sir, whether he did or not?" A. I don't think I was asked in my examination last summer in regard to Stephens at all.

Q. I ask you if the chief justice did not put that question to you and didn't say "No?" A. I don't recollect, sir.

Q. Do you swear that you don't recollect? A. I do, sir.

Q. If the chief justice put that question to you and you answered "No," did you tell the truth? A. What was the question, sir?

Q. I ask you, first, if the chief justice asked you if you had heard any of your klan say anything about the death of Stephens? A. I don't recollect whether he did or not.

Q. I ask you, then, the question: if the chief justice put that question to you and you answered "No," you told the truth? A. No, sir; if I answered no, I certainly did not understand the question.

Q. Were you sworn before the chief justice? A. Last summer.

Q. Yes, sir. A. I was, sir.

Q. When was it that you joined the Consntitutional Union Guard? A. I think it was probably some time in 1869.

Q. I will ask you this further question. Why did not you tell the judges or some lawyer, or some peace officer what you had heard about this Stephens murder? A. I did not care to forfeit my life.

Q. Why didn't you do it last summer? A. I did not think of it. I was not asked about it that I recollect.

Q. Did not you think you would be killed if you did not? A. Well, I don't know.

Q. Was not that the reason that you did not? A. No I don't know that it is—no, sir, I don't recollect it.

Q. Didn't you say just now that you did not care to forfeit your life? A. I thought you meant before last summer.

Q. You know that there was a great deal said about it last fall? A. About what?

Q. About the death of Stevens? A. There was I suppose.

Q. The matter was up before the court? A. Yes, sir.

Q. Were you here then? A. I was part of the time.

Q. Don't you know that there was a great deal of excitement and feeling about it? A. There was.

Q. At Caswell and here at the capital? A. Yes, sir.

Q. Don't you know that extreme means was taken to get hold of testimony? A. I believe there was.

Q. And yet you did not tell what you told here? A. I did not.

Q. Why didn't you? A. Because I didn't think of it.

Q. Were you then the governors' counsel? A. No, sir.

Q. When were you the governors counsel? A. That was after the Caswell prisoners were disposed of and they had commenced with the Alamance prisoners for sometime.

Q. Why did not you tell it to the governor then? A. I didn't think of it. It was a mere conversation. Mr. Long and I had numerous conversation.

Q. When did you first tell this? A. I don't know.

Q. When did you first give it out? A I don't recollect. I talked with some particular friends of mine about it some time ago.

Q. Did you ever communicate to anybody connected with this trial until last night? A. I don't know that I did.

Q. How came your recollection to be refreshed about it now? A. Well, I don't know, Mr. Long and myself talked

about it since he came back from Arkansas. He was my partner in the law business and he and I have talked about it.

Q. When he and you talked about it why didn't you go and tell some law officer or peace officer? A. I didn't think it was probably my business to go and do it voluntarily.

Q. Did you make this statement before the outrage committee at Washington? A. I did.

Q. Was it the first time you told it after you heard it? A. It was the first time I told it on oath, I have talked about it, as I have stated before, to some gentlemen.

Q. I understood you to say in your examination in chief one part of the oath you took was, if you violated it, the penalty was death? A. No, sir, that was not in the oath, I said the oath said "such punishment as the camp should inflict," and in the explanation I was informed that the punishment was death.

Q. Who informed you of it? A. Mr Long.

Q. I put you on your guard again and ask you if Mr. Long ever told you that if you violated this oath the punishment was death? A. He did sir.

Q. You swear to that squarely? A. I do.

Q. At the time you were initiated? A. Yes, sir.

Q. I ask you whether that meeting called to assemble the day the federal troops arrived there was called in good faith. But first I will ask you about the other meeting; was that called in good faith, or was it a mere subterfuge? A. Which meeting?

Q. The meeting on the 8th of January when you reported the resolutions? A. I cannot say what objects others had in view.

Q. What was your object? A. I know that I was anxious that the Shoffner bill should not pass.

Q. Were you acting in good faith in that meeting? A. Yes, sir, I was in that direction.

Q. Were you acting in good faith so far as all the resolutions passed were concerned? A. Yes, sir, I think I was.

Q. Have you any reason to believe that any one there present were acting otherwise than in good faith? A. I cannot say as to that.

Q. I ask you if you have any reason—you can tell that, I reckon? A. I don't know that I have.

Q. Have you any reason to believe or know that anybody there was acting otherwise than in good faith? A. I know the organization of Kuklux there was very anxious that the Shoffner bill should not pass.

Q. Don't shoot all around the question, come up to it. I ask you if you have any reason to believe that that meeting was held otherwise than in good faith by anybody in it? A. I cannot say that I have any reason.

Q. Were there a great many people there that were not Kuklux? A. I believe there were a great many there that I did not know.

Q. Was it a large meeting? A. Yes, sir, a pretty full meeting.

Q. Did the meeting have any reason to suspect you were a Kuklux? A. None except those who were present who knew I was.

Q. I ask you if that meeting called to assemble the day the troops got there, was held in good faith on your part? A. I think the object of calling that meeting was to prevent the coming of the troops.

Q. Was it in good faith? A. I don't know ——

Q. Was it your object to have people get together there and condemn this lawless conduct? A. I was very anxious myself to stop it.

Q. You went there in good faith? A. Yes, sir.

Q. Have you any reason to believe that anybody else there had any other object? A. I cannot say that I have.

Q. Where was it that you had the conversation with James Bradshaw about slaying Outlaw? A. That was some week or so after Outlaw was killed.

Q. Where at? A. At Graham, sir.

Q. Will you say it was within two weeks? A. Well, I think probably it was in less than three, it was while the first company of soldiers were there I reckon. I recollect that they came there after Outlaw was hung.

Q. At what place? A. Sitting on the steps of the building occupied by Mr. Hannah then as a store.

Q. What time in the day? A. I cannot recollect particularly about that sir. It was in the evening probably after dinner.

Q. Are you sure of that? A. I cannot recollect as to the time of day.

Q. Are you sure it was in the day time? A. Yes, sir, it was in the day time on the steps.

Q. Why didn't you tell that? A. I did tell it upon my examination last summer.

Q. Why didn't you tell it before that? A. I should have got about what Outlaw got I apprehend if I had done that.

Q. You were afraid to tell that, weren't you? A. You can imagine from my answer.

The CHIEF JUSTICE. You can answer again.

Q. Were you afraid to tell it? A. I was.

Q. Look at that paper (handing to witness a paper) and say if that is the oath that Mr. Long administered to you and the by-laws that he explained to you [handing the witness a paper.] What do you say about that? A. [After reading it.] I think this is in substance, as far as it goes, the oath.

Q. Is this the oath he administered to you? A. That is a part of it.

Q. Isn't it all? A. I don't think so.

Q. Do you swear that is not all? A. I think this third one of the by-laws here is a part of the oath.

Q. How much more is there of it? A. I cannot say.

Q. Do you swear that Long administered to you any oath that is not embraced there? A. Well, I think this third section of the by-laws, as I said before, is a part of the oath. I think there was some more explanation given than is contained in these by-laws.

Q. Was it written down? A. No, sir, I don't think it was written.

Q. Is that in substance the oath that he administered to you? A. What of it that is here, is.

Q. How much more is there—tell us the provision that is not there or the substance of the provision that you swore to? A. I think this section 3 of the by-laws was in the oath.

Q. Well, suppose it was. A. I think there was some further explanation in regard to the manner of making a raid.

Q. I am not talking about explanations, I mean the oath? A. I think that is the best of my recollection.

Q. Has that got the provision in it about swearing—finding false verdicts, &c.? A. No, sir, it has not.

Q. What is omitted in that? A. I did not say that was in the oath I took. I said it was in the oath or the explanation. I sasd I inferred from the oath and explanation which I took that such would be the case.

Q. You said a while ago, and if you did not state so you may correct yourself now—that that provision was in the oath. I called it to your attention and you said that that was substantially the oath? A. I said I thought it was in substance in the oath or explanation

Q. No, sir, you swore that this was the oath and that the other matters were outside and you got them by inference, but you said that this clause included in brackets was in the oath you took? A. I don't think I said that was in the oath. I said I thought it was in substance the oath, that I could not state as to the exact wording of the oath. I cannot recollect the exact words.

Q. Then you don't swear that this clause, "And that you "will never bear state's evidence against any member of the "brotherhood," was in the oath you took? A. I swore this, that my opinion is from the oath and explanation which I heard and took that such was required of the members.

Q. That is your inference? A. Yes, sir.

Q. But I ask you the question now, andI asked you before—

whether that clause was in the oath you took? A. I would not swear positively that it was in the oath.

Q. Will you swear then to the best of your recollection, it was? A. It was either in the oath or in the explanation.

Q. I thought you said you got it from inference? A. That was my opinion in regard to it, that that was required of the members.

Q. I ask you whether Albright, the man designated as "Red-eye," told you that one hundred men were to be shot—or a large number—in Alamance county? A. I don't think he did; no sir.

Q. Are you sure about that? A. Not that many.

Q. How many? A. I don't know that he said any number were to be shot. He was talking to me about a trial of the prisoners.

Mr. BOYDEN. How is that evidence?

Mr. GRAHAM. Albright was a Brigadier-General who carried on negotiations between the witness and the governor. His conversations with the witness are all competent.

Mr. BOYDEN. I have not understood how the testimony of Mr. "Red-eye," has anything to do with this. He has not been put upon the stand as a witness.

The CHIEF JUSTICE. There does not seem to be any connection with him yet. He is a competent witness to be introduced.

Mr. MERRIMON. He was a member of the military court.

Mr. GRAHAM. We have proved Albright was a negotiator between the witness and the governor and we have heretofore proved the conversations between Albright and this witness. We now propose to prosecute this enquiry a little further by submitting the question which my associate has propounded.

The CHIEF JUSTICE. You ask in reference to conversation when Albright was seeking to induce this witness to reveal?

Mr. GRAHAM. Yes, sir, during these intervals he was a go-between.

The CHIEF JUSTICE. It is competent.

Q. About how many were to be put to death? A. I don't know whether he stated they were to be put to death or not. Either before or after I was released—I don't remember now, probably before—we were talking about that, and he said the prisoners would certainly be tried, and if convicted, would certainly be punished.

Q. Executed? A. Yes, sir, some of them with death, if they were found guilty of murder.

Q. I ask you if you did not say that a large number of them would be shot or hanged? A. Yes, sir, he said if they were convicted they would be.

Q. Didn't he say they would be convicted? A. I don't know that he said that.

Q. Didn't he mention the names of certain men to you who would be executed? A. No, sir, I can't say that he did.

Q. Didn't he tell you that 'Dolph. Moore would be executed? A. I cannot say that he did.

Q. Did he say anything about men being "lost on the way?" A. No, sir.

Q. Didn't he tell you that Kirk's men had a way of losing folks? A. I don't know that he did.

*Re-Direct Examination.*

By Mr. BOYDEN:

Q. When did you say this talk about disbanding the Kuklux organization took place? A. Between Mr. Bason, and Long and myself?

Q. Yes? A. I don't recollect the day. I think it was probably sometime in 1869.

Q. Was it before Outlaw was hung or after? A. Before.

Q. Before Puryear was drowned? A. Yes, sir, it was shortly after the whipping had commenced in Alamance.

Q. Before Holt was shot? A. I think it was—yes, sir.

Q. Most of those outrages, then, by the Kuklux have been committed since that talk? A. Yes, sir.

Q. It was not disbanded, was it? A. I don't know. Mr. Long stated that he had called a meeting of the chiefs and had disorganized it.

Q. But they kept up their operations? A. Yes, sir.

Q. [Handing a paper to witness]. Look upon that paper and say if that is the communication that the counsel have been talking about as having been altered. Is that the original? Look it over and see? A. That is my writing. I think that is the letter.

Q. Is that the original communication about which they were inquiring? A. It is. sir, I think.

Q. They asked you about certain alterations in it after it was originally written? A. Yes, sir.

Q. Do you see that on it? A. There are no alterations there. Do you wish me to state the alteration that was made.

Q. Yes, sir? A. There was one section that was added.

Q. Which section was that? A. This in which I vouch for the existence of the order.

Mr. BOYDEN. We offer the letter in evidence.

Mr. MERRIMON. We object to it. The witness himself is here to state.

Mr. BOYDEN. I think, Mr. Chief Justice and Senators, that it is evidence, upon two grounds. In the first place, it is a written statement, and is offered to confirm the witness in what he has stated here to-day. We offer it upon the further ground that the counsel for the prosecution have made inquiry after inquiry about the letter, and have asked him if there was not an addition to or alteration in it. He has admitted that there was a section added. We desire therefore on those grounds to lay the paper before the senate. It is a written statement made by the witness before he was ever examined in court, a memorandum of what he knew, and he has been questioned in reference to it upon the cross-examination. Therefore, according to all the rules of evidence in North

truth connected with it, they propose to reject it. Sir, much of this information was permitted, as understood by us, on the ground that the letter was regarded as in evidence. Now it is not only disclaimed that the letter was in evidence but the attempt is made to keep it from the court when we offer it. I think it is admissible upon both grounds.

Mr. MERRIMON. Mr. Chief Justice: I don't deny the rule of law as stated by my friend, that you may show what a witness said on a former occasion to confirm what he states at the present time. I suppose he may be asked the question as to whether he had not made the same statement upon a former occasion. But that cannot apply to a paper like this. How much of this paper is to be introduced? Sir, I take it that the whole breadth of the rule for which my friend contends, would only let in that portion of the letter that refers to matters about which the witness has testified here to day. There are other matters referred to in this paper—independent matters not touched upon in the examination here, and about which I did not examine him because I didn't care to introduce this paper, to call out its contents. Among other things it is stated in the document that President Johnson was the head of the Kuklux! If I had understood the paper was to be admitted I should have asked the witness where he got that information, how he happened to put that fact in, and should have asked many questions tending to show complicity between the witness and the respondent. But that was outside of Alamance and altogether incompetent. I did not therefore ask him those questions, nor did I at any time call for the contents of this paper nor say that we would put it in evidence. When I was asking about the paper the gentlemen were contending, as now, that if we examined the witness upon it, it should be introduced in evidence. I then reminded the chief justice that the court had already decided over and over again that we might speak of a state's warrant that has been issued, or that we might show that a court had been held, and that we were not bound to produce a warrant or a record because we

didn't offer to show their contents. That rule applies here. We spoke of a paper—this or some other one—but we didn't offer the contents in the paper in evidence. It was therefore not put in evidence and we did not intend to introduce it—it was not understood that it was in evidence.

But to advert again to the rule that the gentleman insists upon. Of course only so much of the paper could be introduced here to confirm what the witness has stated as touches the matters about which he has been examined to-day. Now I ask, how you are going to separate those matters from the other matters that are in the paper. The proposition is practically impossible. There are matters referred to in this paper that are not competent to come before this court in any view of this case. I say therefore it is not like the question whether the witness had made a statement to the same effect on a former occasion, nor is it like the proposition to enable a witness to prove what he had said on a former occasion. If you introduce this paper it is all to go in, though much of it is immaterial matter which the court ought not to consider.

Mr. SMITH. The gentleman therefore proposes to reject it *all*, because *some* of it ought not to come in.

Mr. MERRIMON. I say, that the fact shows the impracticability and unreasonableness of the rule which the gentleman contends for.

Mr. SMITH. It shows then the impracticability and unreasonableness of a rule, settled over and over again by the courts of this State. I read from Battle's Digest, page 440:

"Where with a view to discredit a witness, evidence of in-
"consistent statement made by him is introduced by the ad-
"verse party, it is proper to permit the party introducing him
"to prove other statements conforming to the testimony given
"on trial, and the witness whose testimony is attacked, may be examined on that point. *State vs. George*, 8 Iredell, 324.

"When a witness is impeached by showing that he has made
"contradictory statements, it is perfectly regular in reply to

"show that he has made consistent statements. *Hoke vs. Flem-*
"*ming* 10 Iredell, 263.

"Where a witness is impeached on the ground of bad char-
"acter, evidence may be given of previous statements made
"by him consistent with his testimony on the trial.—*State vs.*
"*Dore*, 10 *Ired.*, 469."

Mr. MERRIMON. We don't deny that rule.

Mr. SMITH. It has also been decided that even where the impeaching testimony comes in the nature of a cross.examination, that also brings the case within the rule. Now, if there is evidence in this letter corroborative of the testimony of the witness to-day, how can it be rejected without rejecting this current of authority? We have for its introduction a right to it. The rule is not to be changed because it may in a particular instance involve other matters. That may be a reason for asking the court to exclude the inadmissible part and admit the rest, but it can be no reason for ruling out testimony which is material, and which concurs with that delivered here to day and rejecting the letter altogether. I take it that the writing is in a nature of a conversation. We have a right to all of it that is material to the present inquiry and corroborating the testimony of the witness, and the opposite side may have a right to exclude all that does not tend to its support. Now, the superior court, in a recent case—from Cumberland, I think—held that it did not follow, as is insisted now, that a declaration constituting a single conversation, of which some parts were proper and other parts improper to be heard, was for this reason to be excluded altogether, and that, on the contrary, so much as was competent should be admitted and the rest rejected.

The principle there settled does not authorize the refusal to hear evidence, in itself competent and proper, simply because of its association with other evidence which is not.

The rule is of much easier application to written or documentary than it is to oral evidence, as the parts can be more

easily separated, and thus the danger of an improper influence from the hearing of the incompetent part avoided.

But independently of any difficulties, real or apparent, in the practical applicaiton of the rule, the respondent has the right of an accused party, to bring to the notice of the court all material and proper evidence, and, it is but justice alike to him and to the witness, that the latter should have opportunity of making explanations as to the alleged alterations made in the writing about which he has been interrogated. He has been asked about the alterations in that letter, and they have been the topic of repeated enquiries, against which we protested. And now when the original writing is offered is the answer of the witness to the enquiry to stand without an opportunity of correcting it by the original memorandum itself of the matter to which the conversation and enquiry related? We think that on both grounds the letter is fully admissible.

Mr. GRAHAM. Mr. Chief Justice and Senators, the remarks of the genfleman [Mr. Smith] apply to the enquiry made by us as to whether the witness and the governor did not have interviews—more than one in relation to some communications that the governor wished him to make to the public and whether the governor did not make suggestions which caused the witness to change the paper which he had written. But that does not reveal the contents of the paper in a single particular. It is therefore a matter of conduct that we have been enquiring into and so far as that is concerned we had a right to it as independent evidence and they are entitled to nothing of this nature in reply.

Then, as to offering the paper as confirmatory of the testimony of the witness to-day. The proposition is to give in evidence the political harrangue of the witness made on the eve of an election, in order to confirm some part of the evidence which he has given here to-day. If he repeated the same speech then that he has done now it might be offered as competent evidence; but if as it has only a reference here and there in the letter to matters of which he has spoken to-day,

then clearly the document is not proper as evidence at all. We say, then, that the matter stands upon this footing: they offer a declaration made anterior to the past election with the view to sustain some portions of his statements here.

The CHIEF JUSTICE. The presiding officer is of the opinion that the letter or communication, whatever it is, ought to be read. We know of the existence of some paper, and although it is allowable to speak of it without producing it yet as the other side brings forward the very paper itself, it would seem to be admissible, inasmuch as the witness has been attacked that the paper may corroborate his testimony—how far it will do so we cannot now tell.

Mr. MERRIMON. Does the whole paper go on the record?

The CHIEF JUSTICE. Yes, the whole of it. The paper is identified.

Mr. BOYDEN. We have already shown that this is the paper.

Senator EDWARDS. I would like to ask if that paper is to be read as a part of the evidence in this trial?

The CHIEF JUSTICE. That is the ruling of the presiding officer.

Senator EDWARDS. I desire the sense of the senate upon it.

A sufficient number seconded the call for a decision by the Senate.

The clerk proceeded to call the roll.

The name of Senator Olds was called.

Senator OLDS. Mr. Chief Justice, I would like to explain my vote. It appears to me that the question is divisible to this extent. The senate, as a court, is entitled to the corroborative parts as far as they go, and that the parts which are not corroborative should be disconnected, and not be before us as evidence; but as they are not, we have no right to consider such portions. But, that, in order to get at the portions that do corroborate the testimony of the witness, we are obliged to take the whole, and in our consideration of the paper we can

exclude the parts which in our judgment don't belong to the question; therefore, I vote aye.

The name of Senator Warren was called.

Senator WARREN. I shall vote no, for nearly the same reason assigned by the senator from Wake for voting aye. [Laughter.]

The CLERK announced the result, as follows:

Those who voted in the affirmative are:

Messrs Barnett. Beasley, Bellamy, Brogden, Eppes, Flythe, Hyman, King, McCotter, Olds and Price—11.

Those who voted in the negative are:

Messrs. Adams, Battle, Brown, Council, Crowell, Currie, Dargan, Edwards, Flemming, Gilmer. Graham, of Alamance, Latham, Ledbetter, Love, Mauney, McClammy, Merrimon, Morehead, Murphy, Norment, Robbins, of Davidson, Robbins, of Rowan, Skinner, Troy, Warren and Worth—26.

So the paper was excluded.

Senator EDWARDS. Mr. Chief Justice, I move that the senate, sitting as a court of impeachment, do now adjourn.

Senator GILMER. I submit as a point of order, that under the rules of the court, when a witness is under examination at the hour fixed for adjournment the examination shall continue until completed.

Senator MURPHY. I hope that the rule will be suspended. It is possible that the examination of this witness will require an hour or hour and a half longer. I move that the rule requiring that the examination of witnesses shall continue after the usual hour fixed for adjournment until finished, be suspended for this day.

The CHIEF JUSTICE put the question on the motion of Senator Murphy and it was decided in the negative.

By Mr. BOYDEN [resuming.]

Q. Look at the letter, of which you have spoken, on page 52d of the pamphlet containing the third annual message of the governor? A. That is he same one I examined just now.

Q. Where was that witten? A. That was written here in Raleigh.

Q. How did you happen to write it? A. Well, as I stated before, the information had gotten out at home that I was about to disclose some of these Kuklux matters, and I was rather afraid to go back to Alamance with that impression ahead of me.

Q. Please to go on now. Take this letter which you published. Did you make a statement to that effect to anybody?

Mr. GRAHAM. I thought the senate had disposed of the letter.

Mr. BOYDEN. The proposition now is to offer not the whole letter, but those parts only which go to corroborate what the witness has testified to here to-day, and to exclude all the other parts. I suppose those parts will be admitted in evidence.

Mr. GRAHAM. I think the court has disposed of the letter. I suppose the witness may be asked whether he made on any former occasions any particular statements. But as to the letter I think we have nothing to do with it.

Mr. SMITH. Mr. Chief Justice, this court have simply decided that the admission of the letter as an entirety is objectionable. Two of the senators placed their votes expressly on that ground—that those parts which were not corroborative testimony were to be excluded. We desire a distinct decision on the admission of so much of this letter as is corroborative of the testimony of the witness here to-day—no more.

Mr. MERRIMON. Please point out the parts.

Mr. GRAHAM. The Senate has excluded the whole paper, we submit that we are done with it. But if the gentleman conceives that they can confirm the witness by permitting him to state that he said such and such things at another time, that they can do.

Mr. SMITH. No, sir, we offer so much of that letter as is corroborative of the statement of the witness here to-day just as the declarations were admitted in the case to which I re-

ferred. Not that the witness may refresh his recollection merely but we offer that written statement made by him at the time as confirmatory.

Mr. BRAGG. How are we to know, Mr. Chief Justice, the parts of the letter which are corroborative of the witness' statements?

The CHIEF JUSTICE. I understood that the counsel has marked the parts upon the paper itself.

Mr. BRAGG. In asking the witness the question whether he made certain statements I suppose it is proper for him to look at that paper and refresh his memory, but as to the admission of the letter I understand that to be a matter already disposed of. There can be no objection as to the question, whether the witness has made certain statements, naming the statements, but when the gentlemen on the other side offer the letter, making certain parts which are unknown to the court and to us upon the other side, the offer is so vague and indefinite in its character that we object to it.

Mr. BOYDEN Well, the parts we offer are marked, and the counsel for the managers if they desire can examine them. We say that this letter, written at that time, is much stronger than anything the witness could say to-day in corroboration. Those parts can be seen and examined by the court, or the managers and their counsel, and then we can hear their objections to any part. Certainly this court have not undertaken to overrule those decisions of the courts of North Carolina, made when there was no excitement and nothing to induce an improper decision. They have simply decided that they will not receive certain matters in that letter, which have no bearing upon the testimony given by the witness here, and are therefore not competent. It has not been decided that those parts which are strictly corroborative shall be excluded.

Mr. GRAHAM. We understand that the court have decided to reject the whole paper, but that the gentleman

Q. Most of those outrages, then, by the Kuklux have been committed since that talk? A. Yes, sir.

Q. It was not disbanded, was it? A. I don't know. Mr. Long stated that he had called a meeting of the chiefs and had disorganized it.

Q. But they kept up their operations? A. Yes, sir.

Q. [Handing a paper to witness]. Look upon that paper and say if that is the communication that the counsel have been talking about as having been altered. Is that the original? Look it over and see? A. That is my writing. I think that is the letter.

Q. Is that the original communication about which they were inquiring? A. It is, sir, I think.

Q. They asked you about certain alterations in it after it was originally written? A. Yes, sir.

Q. Do you see that on it? A. There are no alterations there. Do you wish me to state the alteration that was made.

Q. Yes, sir? A. There was one section that was added.

Q. Which section was that? A. This in which I vouch for the existence of the order.

Mr. BOYDEN. We offer the letter in evidence.

Mr. MERRIMON. We object to it. The witness himself is here to state.

Mr. BOYDEN. I think, Mr. Chief Justice and Senators, that it is evidence, upon two grounds. In the first place, it is a written statement, and is offered to confirm the witness in what he has stated here to-day. We offer it upon the further ground that the counsel for the prosecution have made inquiry after inquiry about the letter, and have asked him if there was not an addition to or alteration in it. He has admitted that there was a section added. We desire therefore on those grounds to lay the paper before the senate. It is a written statement made by the witness before he was ever examined in court, a memorandum of what he knew, and he has been questioned in reference to it upon the cross-examination. Therefore, according to all the rules of evidence in North

so far as this day's proceedings are concerned, in order that the court might entertain a motion to adjourn pending the examination of the witness.

The CHIEF JUSTICE put the question upon the motion of Senator Edwards, and it was decided in the affirmative.

Upon motion of Senator Edwards, the hour of three o'clock and ten minutes having arrived the court adjourned to meet on Monday, March 6th, at eleven o'clock, a. m.

## THIRTIETH DAY.

SENATE CHAMBER, March 6, 1871.

The COURT met at eleven o'clock, pursuant to adjournment, Hon. Richmond M. Pearson, Chief Justice of the Supreme Court, in the chair.

The proceedings were opened by proclamation made in due form by the doorkeeper.

The CLERK proceeded to call the roll of senators when the following members were found to be present:

Messrs. Barnett, Battle, Beasley, Bellamy, Brogden, Brown, Cook, Council, Crowell, Currie, Dargan, Edwards, Eppes, Flemming, Flythe, Graham, of Alamance, Hawkins, Hyman, Jones, King, Latham, Ledbetter, Lehman, Love, Mauney, McClammy, McCotter, Merrimon, Moore, Morehead, Murphy, Olds, Price, Robbins, of Davidson, Robbins, of Rowan, Skinner, Speed, Troy, Waddell, Warren, Whiteside and Worth—42.

Senator MOORE moved that the reading of the journal of the proceedings of Saturday be dispensed with.

The CHIEF JUSTICE put the question on the motion of Senator Moore, and it was decided in the affirmative.

Mr. GRAHAM. Mr. Chief Justice, I beg leave to call attention to what I think is a mistake in the evidence on page 1416 near the top of the printed report. In the testimony of Mr. William S. Bradshaw the question was asked as to various citizens belonging to the secret organization which has been so frequently referred to here. As recorded here, the question was asked in reference to "Mr. Henderson Scott," and the answer is, "Yes, sir."

The STENOGRAPHER, Mr. Underhill, stated that the answer should be "No," and was probably a mistake of the printer.

Mr. BOYDEN. I will mention, Mr. Chief Justice, that I have noticed that a very important matter has been left out in

didn't offer to show their contents. That rule applies here. We spoke of a paper—this or some other one—but we didn't offer the contents in the paper in evidence. It was therefore not put in evidence and we did not intend to introduce it—it was not understood that it was in evidence.

But to advert again to the rule that the gentleman insists upon. Of course only so much of the paper could be introduced here to confirm what the witness has stated as touches the matters about which he has been examined to-day. Now I ask, how you are going to separate those matters from the other matters that are in the paper. The proposition is practically impossible. There are matters referred to in this paper that are not competent to come before this court in any view of this case. I say therefore it is not like the question whether the witness had made a statement to the same effect on a former occasion, nor is it like the proposition to enable a witness to prove what he had said on a former occasion. If you introduce this paper it is all to go in, though much of it is immaterial matter which the court ought not to consider.

Mr. SMITH. The gentleman therefore proposes to reject it *all*, because *some* of it ought not to come in.

Mr. MERRIMON. I say, that the fact shows the impracticability and unreasonableness of the rule which the gentleman contends for.

Mr. SMITH. It shows then the impracticability and unreasonableness of a rule, settled over and over again by the courts of this State. I read from Battle's Digest, page 440:

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"verse party, it is proper to permit the party introducing him
"to prove other statements conforming to the testimony given
"on trial, and the witness whose testimony is attacked, may be examined on that point. *State vs. George*, 8 Iredell, 324.

"When a witness is impeached by showing that he has made
"contradictory statements, it is perfectly regular in reply to

"show that he has made consistent statements. *Hoke vs. Flem-*
"*ming* 10 Iredell, 263.

"Where a witness is impeached on the ground of bad char-
"acter, evidence may be given of previous statements made
"by him consistent with his testimony on the trial.—*State vs.*
"*Dore*, 10 *Ired.*, 469."

Mr. MERRIMON. We don't deny that rule.

Mr. SMITH. It has also been decided that even where the impeaching testimony comes in the nature of a cross.examination, that also brings the case within the rule. Now, if there is evidence in this letter corroborative of the testimony of the witness to-day, how can it be rejected without rejecting this current of authority? We have for its introduction a right to it. The rule is not to be changed because it may in a particular instance involve other matters. That may be a reason for asking the court to exclude the inadmissible part and admit the rest, but it can be no reason for ruling out testimony which is material, and which concurs with that delivered here to day and rejecting the letter altogether. I take it that the writing is in a nature of a conversation. We have a right to all of it that is material to the present inquiry and corroborating the testimony of the witness, and the opposite side may have a right to exclude all that does not tend to its support. Now, the superior court, in a recent case—from Cumberland, I think—held that it did not follow, as is insisted now, that a declaration constituting a single conversation, of which some parts were proper and other parts improper to be heard, was for this reason to be excluded altogether, and that, on the contrary, so much as was competent should be admitted and the rest rejected.

The principle there settled does not authorize the refusal to hear evidence, in itself competent and proper, simply because of its association with other evidence which is not.

The rule is of much easier application to written or documentary than it is to oral evidence, as the parts can be more

easily separated, and thus the danger of an improper influence from the hearing of the incompetent part avoided.

But independently of any difficulties, real or apparent, in the practical applicaiton of the rule, the respondent has the right of an accused party, to bring to the notice of the court all material and proper evidence, and, it is but justice alike to him and to the witness, that the latter should have opportunity of making explanations as to the alleged alterations made in the writing about which he has been interrogated. He has been asked about the alterations in that letter, and they have been the topic of repeated enquiries, against which we protested. And now when the original writing is offered is the answer of the witness to the enquiry to stand without an opportunity of correcting it by the original memorandum itself of the matter to which the conversation and enquiry related? We think that on both grounds the letter is fully admissible.

Mr. GRAHAM. Mr. Chief Justice and Senators, the remarks of the gentleman [Mr. Smith] apply to the enquiry made by us as to whether the witness and the governor did not have interviews—more than one in relation to some communications that the governor wished him to make to the public and whether the governor did not make suggestions which caused the witness to change the paper which he had written. But that does not reveal the contents of the paper in a single particular. It is therefore a matter of conduct that we have been enquiring into and so far as that is concerned we had a right to it as independent evidence and they are entitled to nothing of this nature in reply.

Then, as to offering the paper as confirmatory of the testimony of the witness to-day. The proposition is to give in evidence the political harrangue of the witness made on the eve of an election, in order to confirm some part of the evidence which he has given here to-day. If he repeated the same speech then that he has done now it might be offered as competent evidence; but if as it has only a reference here and there in the letter to matters of which he has spoken to-day,

then clearly the document is not proper as evidence at all. We say, then, that the matter stands upon this footing: they offer a declaration made anterior to the past election with the view to sustain some portions of his statements here.

The CHIEF JUSTICE. The presiding officer is of the opinion that the letter or communication, whatever it is, ought to be read. We know of the existence of some paper, and although it is allowable to speak of it without producing it yet as the other side brings forward the very paper itself, it would seem to be admissible, inasmuch as the witness has been attacked that the paper may corroborate his testimony—how far it will do so we cannot now tell.

Mr. MERRIMON. Does the whole paper go on the record?

The CHIEF JUSTICE. Yes, the whole of it. The paper is identified.

Mr. BOYDEN. We have already shown that this is the paper.

Senator EDWARDS. I would like to ask if that paper is to be read as a part of the evidence in this trial?

The CHIEF JUSTICE. That is the ruling of the presiding officer.

Senator EDWARDS. I desire the sense of the senate upon it.

A sufficient number seconded the call for a decision by the Senate.

The clerk proceeded to call the roll.

The name of Senator Olds was called.

Senator OLDS. Mr. Chief Justice, I would like to explain my vote. It appears to me that the question is divisible to this extent. The senate, as a court, is entitled to the corroborative parts as far as they go, and that the parts which are not corroborative should be disconnected, and not be before us as evidence; but as they are not, we have no right to consider such portions. But, that, in order to get at the portions that do corroborate the testimony of the witness, we are obliged to take the whole, and in our consideration of the paper we can

exclude the parts which in our judgment don't belong to the question; therefore, I vote aye.

The name of Senator Warren was called.

Senator WARREN. I shall vote no, for nearly the same reason assigned by the senator from Wake for voting aye. [Laughter.]

The CLERK announced the result, as follows:

Those who voted in the affirmative are:

Messrs Barnett. Beasley, Bellamy, Brogden, Eppes, Flythe, Hyman, King, McCotter, Olds and Price—11.

Those who voted in the negative are:

Messrs. Adams, Battle, Brown, Council, Crowell, Currie, Dargan, Edwards, Flemming, Gilmer, Graham, of Alamance, Latham, Ledbetter, Love, Mauney, McClammy, Merrimon, Morehead, Murphy, Norment, Robbins, of Davidson, Robbins, of Rowan, Skinner, Troy, Warren and Worth—26.

So the paper was excluded.

Senator EDWARDS. Mr. Chief Justice, I move that the senate, sitting as a court of impeachment, do now adjourn.

Senator GILMER. I submit as a point of order, that under the rules of the court, when a witness is under examination at the hour fixed for adjournment the examination shall continue until completed.

Senator MURPHY. I hope that the rule will be suspended. It is possible that the examination of this witness will require an hour or hour and a half longer. I move that the rule requiring that the examination of witnesses shall continue after the usual hour fixed for adjournment until finished, be suspended for this day.

The CHIEF JUSTICE put the question on the motion of Senator Murphy and it was decided in the negative.

By Mr. BOYDEN [resuming.]

Q. Look at the letter, of which you have spoken, on page 52d of the pamphlet containing the third annual message of the governor? A. That is he same one I examined just now.

Q. Where was that witten? A. That was written here in Raleigh.

Q. How did you happen to write it? A. Well, as I stated before, the information had gotten out at home that I was about to disclose some of these Kuklux matters, and I was rather afraid to go back to Alamance with that impression ahead of me.

Q. Please to go on now. Take this letter which you published. Did you make a statement to that effect to anybody?

Mr. GRAHAM. I thought the senate had disposed of the letter.

Mr. BOYDEN. The proposition now is to offer not the whole letter, but those parts only which go to corroborate what the witness has testified to here to-day, and to exclude all the other parts. I suppose those parts will be admitted in evidence.

Mr. GRAHAM. I think the court has disposed of the letter. I suppose the witness may be asked whether he made on any former occasions any particular statements. But as to the letter I think we have nothing to do with it.

Mr. SMITH. Mr. Chief Justice, this court have simply decided that the admission of the letter as an entirety is objectionable. Two of the senators placed their votes expressly on that ground—that those parts which were not corroborative testimony were to be excluded. We desire a distinct decision on the admission of so much of this letter as is corroborative of the testimony of the witness here to-day—no more.

Mr. MERRIMON. Please point out the parts.

Mr. GRAHAM. The Senate has excluded the whole paper, we submit that we are done with it. But if the gentleman conceives that they can confirm the witness by permitting him to state that he said such and such things at another time, that they can do.

Mr. SMITH. No, sir, we offer so much of that letter as is corroborative of the statement of the witness here to-day just as the declarations were admitted in the case to which I re-

ferred. Not that the witness may refresh his recollection merely but we offer that written statement made by him at the time as confirmatory.

Mr. BRAGG. How are we to know, Mr. Chief Justice, the parts of the letter which are corroborative of the witness' statements?

The CHIEF JUSTICE. I understood that the counsel has marked the parts upon the paper itself.

Mr. BRAGG. In asking the witness the question whether he made certain statements I suppose it is proper for him to look at that paper and refresh his memory, but as to the admission of the letter I understand that to be a matter already disposed of. There can be no objection as to the question, whether the witness has made certain statements, naming the statements, but when the gentlemen on the other side offer the letter, making certain parts which are unknown to the court and to us upon the other side, the offer is so vague and indefinite in its character that we object to it.

Mr. BOYDEN Well, the parts we offer are marked, and the counsel for the managers if they desire can examine them. We say that this letter, written at that time, is much stronger than anything the witness could say to-day in corroboration. Those parts can be seen and examined by the court, or the managers and their counsel, and then we can hear their objections to any part. Certainly this court have not undertaken to overrule those decisions of the courts of North Carolina, made when there was no excitement and nothing to induce an improper decision. They have simply decided that they will not receive certain matters in that letter, which have no bearing upon the testimony given by the witness here, and are therefore not competent. It has not been decided that those parts which are strictly corroborative shall be excluded.

Mr. GRAHAM. We understand that the court have decided to reject the whole paper, but that the gentleman

may examine their witness as to whether he made similar statements at another time.

The CHIEF JUSTICE. The court have decided to reject the paper as a whole—that was the suggestion of Senator Edwards. The note was taken upon that question. The presiding officer now decides that such parts of it as tend to corroborate the testimony of the witness ought to be heard-and that the sense of the senate may be taken upon that particular proposition. If the gentlemen do not agree as to the parts that are in corroboration, the presiding officer will have to select them ; but it would be better for the counsel to agree.

Mr. GRAHAM. I really do not know anything about it.

Mr. MERRIMON. I know enough to show that it contains a very vast deal of matter that is not competent. The ideas and words all run into each other, so that it is practically impossible to separate the corrobative portions from other matters that are immaterial and improper. The truth is, the paper is but a strong speech for the election.

Mr. SMITH. Remarks of that sort have no reference to the admissibility of evidence. At all events we ask the sense of the senate as to whether it is not competent to introduce from the writing itself, as the highest order of evidence, whatever does corroborate the testimony to-day. It is admitted by the gentleman on the other side, that we can corrobate it by the witness' statements as to what he did in reference charging any witness on a former occasion. We say that we have a right to the very words of the written communication. It is a more trustworthy kind of evidence than the memory of the witness, from looking at it.

The CHIEF JUSTICE. It has been decided that you can do that.

Mr. MERRIMON. I suppose, then, the counsel for the respondent will submit the paper to us.

Mr. SMITH. Certainly.

Senator EDWARDS. I move that the rule be suspended

so far as this day's proceedings are concerned, in order that the court might entertain a motion to adjourn pending the examination of the witness.

The CHIEF JUSTICE put the question upon the motion of Senator Edwards, and it was decided in the affirmative.

Upon motion of Senator Edwards, the hour of three o'clock and ten minutes having arrived the court adjourned to meet on Monday, March 6th, at eleven o'clock, a. m.

## THIRTIETH DAY.

SENATE CHAMBER, March 6, 1871.

The COURT met at eleven o'clock, pursuant to adjournment, Hon. Richmond M. Pearson, Chief Justice of the Supreme Court, in the chair.

The proceedings were opened by proclamation made in due form by the doorkeeper.

The CLERK proceeded to call the roll of senators when the following members were found to be present:

Messrs. Barnett, Battle, Beasley, Bellamy, Brogden, Brown, Cook, Council, Crowell, Currie, Dargan, Edwards, Eppes, Flemming, Flythe, Graham, of Alamance, Hawkins, Hyman, Jones, King, Latham, Ledbetter, Lehman, Love, Mauney, McClammy, McCotter, Merrimon, Moore, Morehead, Murphy, Olds, Price, Robbins, of Davidson, Robbins, of Rowan, Skinner, Speed, Troy, Waddell, Warren, Whiteside and Worth—42.

Senator MOORE moved that the reading of the journal of the proceedings of Saturday be dispensed with.

The CHIEF JUSTICE put the question on the motion of Senator Moore, and it was decided in the affirmative.

Mr. GRAHAM. Mr. Chief Justice, I beg leave to call attention to what I think is a mistake in the evidence on page 1416 near the top of the printed report. In the testimony of Mr. William S. Bradshaw the question was asked as to various citizens belonging to the secret organization which has been so frequently referred to here. As recorded here, the question was asked in reference to "Mr. Henderson Scott," and the answer is, "Yes, sir."

The STENOGRAPHER, Mr. Underhill, stated that the answer should be "No," and was probably a mistake of the printer.

Mr. BOYDEN. I will mention, Mr. Chief Justice, that I have noticed that a very important matter has been left out in

the testimony of Sheriff Griffith. It may be recollected that we put the question about tearing down or burning negro houses. He said that when a large crowd of the Union League passed by the prisoners when they were in the court house and groaned with a view to insult the prisoners he said he would be one of a company to go in the day time and burn down the house upon any man's farm that employed these men.

The STENOGRAPHER, Mr. Underhill, stated that Mr. Boyden had probably overlooked the testimony of Sheriff Griffith, upon his being recalled in reference to that point, and that he would find the part which he supposed omitted in the report.

Mr. BOYDEN. Then I am probably mistaken.

The CHIEF JUSTICE. I have found the Stenographer so uniformly correct in his report that I take no notes of it at all.

Mr. MERRIMON. Sometimes of course typographical errors will come in.

Mr. BOYDEN. The first matter is as to a letter which we offered on Saturday. We have marked the parts which we propose to put in evidence and have submitted them.

Mr. MERRIMON. We object, sir. This question of their admissibility has not been decided yet.

Mr. BOYDEN. We propose to have these parts read. The first point is as to the parts which we offered on Saturday and their competency, to enable the court to determine that it will be necessary to have them read.

Mr. MERRIMON. Are they to be put on the record?

Mr. BOYDEN. I don't know about that. I suppose they are competent to be read.

Mr. BRAGG. There is no objection to their being read for that purpose.

JAMES E. BOYD, *a witness under examination at the adjournment of the court Saturday, again took the stand.*

*Re-direct examination resumed.*

By Mr. BOYDEN:

Q. Just read these parts of the paper that are marked—do you understand those which are marked? A. No, sir I do not know what parts you have marked.

Mr. MERRIMON. Mr. Chief Justice, before this paper is read I wish to submit a brief argument as to the competency of this paper as evidence. Whether marked or not, I do not care. In the first place, it was a long time controverted in the English courts whether or not declarations made by a witness anterior to the time of his examination could be offered to strengthen his statement where he was impeached. The English decisions are very conflicting, and the decisions of this country are nearly as much so. But the rule in North Carolina is settled by half a dozen decisions that while the evidence is of an exceedingly trifling character, it is competent, and the only question is what is it worth? The judges say—Judge Ruffin in one case, and Judge Battle in another—that it is a species of evidence which is of very trifling weight in any case. But the objection that it was incompetent was overruled on the ground that it was *some* evidence to be considered.

But, Mr. Chief Justice, while that is the rule that obtains in North Carolina, our courts have not departed from the rule that previous statement offered in confirmation of what the witness states when he is impeached *must* be statements touching the particular matter about which he is examined, and they must be statements made at the time the transaction took place and that subsequent statements are not competent. That rule has its foundation in the idea that statements made after the transaction are *post litem motem*, and the rule applies with special and peculiar force and power in this case. The witness has been examined about his connection with this White Brotherhood. He goes on to swear as to when he joined it, the circumstances under which he joined it, and he undertakes to give the objects of the organization Eighteen or twenty months after that time—after the transaction about which he testified—he was arrested by armed men under the direction of the respondent. Forthwith upon

that arrest he opened negotiations with the respondent for his release; he was released, and a part of the consideration of that release was the very paper, and the very statement offered here to confirm his testimony upon this trial. I submit to every man of plain common sense as well as to every legal and judicial mind in this court, whether or not this statement or the facts as they appear to the senate are not *post litem motem* and do not come within the strongest possible view of the rule which I have stated; and I apprehend there can be no question upon looking at the authorities on that point. I have two cases here of our own in which the matter is adverted to, and one of them is so forcible, although not directly in point, that I beg to read and extract from it. It is the opinion of Judge Battle in the case of the State *vs.* George, found in 8th Iredell page 327:"

"The first and main question is, whether when a witness is "sought to be impeached by proof of former statements, in-"consistent with his testimony on the trial, it is competent for "the party or prosecutor who have introduced him, to prove "other consistent statements for the purpose of corroborating "him. Upon this question the English authorities are con-"flicting, and it is very difficult if not impossible to reconcile them."

He cites a number of conflicting authorities, the first of which is in support of his affirmative:

"While Judge Bulla in his *Nisi Prius*, 294, doubts of, and "*Parker's case*. 3 Doug. Rep. 242 (20 Eng. C. L. Rep. 95) "dissents from the position and declares for the negative; in "which it is said that he has the sanction of the great names "of Lords Redsdale and Eldon. The modern writers on the "subject of evidence, in this conflict of authorities, have endeav-"ored to effect a compromise by laying it down as a rule, that, "when the counsel of the opposite party imputes a design in "the witness to misrepresent, from some motive of interest or "friendship, it may, in order to repel such imputation, be "proper to show that the witness made a similar statement at

"a time when the supposed motive did not exist, or when "motives of interest would have prompted him to make a dif- "ferent statement of facts. *I Phil on Ev.* 29 3. *Roscoe's Crim.* "*Ev.* 142. But however it may be in England, we consider "it settled in this state that such confirmatory testimony is ad- "missible. In the case of *Johnson v. Patterson*, 2. Hawks, "Rep. 183, Chief Justice Taylor declared that where evidence "of inconsistent statements of a witness is introduced by "the adverse party, it is proper to permit the party "who called the witness to prove other statements con- "forming to the testimony given on the trial, and in "support of this he relied upon the authority of Gilbert. "In *State* v. *Twitty*, 2 Hawks' Rep. 449, the court "extended the rule, and held that, in all cases where the credi- "bility of the witness is attacked from the nature of his evi- "dence, from his situation, or from imputations directed against "him in cross-examination; confirmatory evidence of this kind "is admissible. In neither of these cases is the distinction "taken in Phillips and Roscoe adverted to, and we think that "it is a distinction which applies more properly to the *weight* "than to the *competency* of the *testimony*. No objection was "made on the trial and none was insisted on in the argument "here to the time when the testimony was offered. As soon "as the prisoner's counsel announced their intention to intro- "duce the discrediting testimony, it became proper to bring "forward the confirmatory evidence. But if it had been im- "proper then, it was made competent afterwards by the intro- "duction on the part of the prisoner of the impeaching testi- "mony. *Smith* v. *Smith*, 8 Ired. Rep. 29. Upon the main "question of evidence, then, we all agree in opinion with the "judge in the court below.

"The subordinate question is whether such confirmatory "testimony can be given by the impeached witness himself. "That is, can he testify to his own former declaration con- "sistent with his testimony given on the trial. The majority "of us, Nash, J. *dissent.*, hold that he can, and we so hold

"because we are unable to discover any principle by which the "testimony can be excluded. We have all just agreed that the "question is a proper one to be asked of *some* witness, and why "may it not be answered by *any* witness, who is not forbidden "to answer it on any or more of the grounds of objections "to the competency of witnesses? These grounds—and they "are said by the highest authority to be the only grounds— "are want of reason, defect of religious belief, infamy and "interest. Lawrence, Justice, in Jordanie v. Lashbrook, 7 "Term Rep. 610, 1 Phill. on Ev. 18. The witness here is "obnoxious to none of these objections. The testimony it is "true is obviously of so weak and unsatisfactory a character "that we are surprised it was offered; but having been offered, "and being of a kind proper in itself, and sworn to by a witness "competent to testify in the cause, we can perceive no reason "why it should have been excluded."

As to the character of the testimony, I could cite a paragraph here from the opinion delivered by his honor, Chief Justice Ruffin. The rule established, as stated there, is that "it is competent to show what the witness impeached has said "before. It seems to me there can be no question about the "fact that the statements be made must have been made at the "time of the transaction, or the conversation about which the "witness is now testifying, and that alone can be offered." But that is not the proposition here. This whole transaction is *post litem motem*, at a time, as the evidence shows, when the witness was in the interest of the respondent, and manufacturing testimony for him. It appeared by what the witness swore on Saturday last that he had resolved after making his statement to make the declaration contained in it good—and he has been at work ever since that time to do it. I therefore say, without reference to what is contained in this paper, that it is entirely incompetent upon principle. But if the court should determine that it is competent at all, then the objection will come up a to what the paper contains and as to its relevancy.

Senator MERRIMON: Mr. Chief Justice, the question now before the court, I understand was decided by the Chief Justice last Saturday.

The CHIEF JUSTICE. The presiding officer so understood it.

Mr. BOYDEN. I understood it was decided expressly.

The CHIEF JUSTICE. The presiding officer understands that the counsel for the managers [Mr. Merrimon] is now moving for a reconsideration of the question.

Mr. MERRIMON. I did not know that it was decided on Saturday.

Mr. BOYDEN. So much of the statement was admitted as was confirmatory of the witness.

Mr. MERRIMON. No, sir, there was none of it admitted.

Mr. GRAHAM. I did not understand that the question was decided further than this, that the gentlemen were to examine the paper, and submit to us so much of it as they thought was material, and that the question as to whether the parts so submitted by them were admissible was to be decided when the matter came up to-day.

The CHIEF JUSTICE. The presiding officer has a different impression. It was decided that so much of the paper as was confirmatory of what the witness testified was competent evidence. Then it was simply left to the counsel to agree as to what came within that ruling.

Mr. GRAHAM. We had a different understanding, Mr. Chief Justice, and we do not wish the question which we raise precluded because it is now practically considered for the first time, and that is as to how much of this paper, if any, is to be admitted. I merely rise for the purpose of stating my impression in regard to it, and I ask that the argument may proceed.

Mr. BRAGG. I feel it due to myself to say that there is a total misapprehension on the part of the counsel upon the other side that we agreed to admit this paper. I certainly did not so understand it. On the contrary one of the coun-

sel brought it over to me, and said that he could mark certain parts which they could offer in evidence.

Mr. McCORKLE. I did not understand that the counsel for the managers consented to it at all.

Mr. BOYDEN. The gentleman (Mr. Bragg) has misunderstood me. I understood him to admit distinctly that such parts as related to the testimony of the witness here were competent evidence, not that any particular part was then admitted.

Mr. BRAGG. We had no understanding about it whatever. The gentleman alleged that there were certain parts of that paper which went to substantiate what the witness had said here. We had never seen it, and made no agreement about it. The counsel on the other side who brought this paper was to point out certain parts, and he promised to furnish us with a copy of it. There was no understanding about it whatever.

Mr. BOYDEN. I do not allege any understanding, Mr. Chief Justice. It seems the gentleman will not understand me. I do allege that not less than two of the counsel for the managers said that such parts of the paper as went to corroborate the testimony of the witness was evidence to be admitted. And [illegible] I say further that I understood it was distinctly agreed on Saturday that the confirmatory portions of the paper were to be examined by the counsel on both sides. We have marked what we think is competent. They were to have looked at it and say whether in their judgment those parts were corroborative of the witness. Why are we to have a discussion here this morning as to the weight of the testimony, and a statement of the doctrine in the books as to whether testimony is entitled to great or little weight? There is no such question before this court. The point now is as to the competency of the evidence, and as to that alone. We are to be governed by the laws of North Carolina in this matter, and it is immaterial how long this controversy as to the rules of evidence existed in England or any where else. That has nothing to do with the question before the court. That controversy has come to an end, and time

and time again have matters of this character been admitted as testimony in our courts. I never heard the idea expressed that *post litem mortem* had anythingto do with the testimony of a witness as to its competency. The court will recollect that the other day we had a long controversy about the admission of a certain paper signed before Judge Clark, then Colonel Clark. The gentlemen on the other side alleged that the paper was signed under duress, and that upon that ground it was not competent. That question the court has very properly decided had nothing to do with the case, that the paper was evidence, and that in order to defeat or weaken the force of it they could show that he did it under duress. The question is as to this written memorandum made by the witness, when it is to be supposed the matter was quite fresh in his memory. Then they allege that the governor has had some hand in getting up this paper.

The CHIEF JUSTICE. The presiding officer does not see that it is worth while to go into a discussion. He has already stated that it was decided by him on Saturday that such parts of that paper as referred to and corroborated the statement of the witness could be read, and that the other parts would be rejected. He thought it was then left to counsel to agree among themselves in reference to the parts that related to this matter, and the parts which were immaterial. If you cannot agree upon them, he does not know how the question can be settled.

Mr. MERRIMON. I suppose it is perfectly competent for the presiding officer to reconsider his ruling and to allow debate now, and I trust he will.

The CHIEF JUSTICE. Certainly.

Mr. GRAHAM. I think it will be found when it comes to be examined that there are no parts of that paper that can well be separated from other parts. The question will be whether there can be taken a sentence here, and a sentence there, and introduced in evidence when the whole document itself is incapable of being introduced. For instance, if a man should,

after having belonged to this organization have undertaken to ridicule it, whether that should be given in evidence or whether having written a sentence somewhat confirmatory of what he had said on the trial it can be admitted although he had said other things wholly irrelevant and pertaining to other parties not before the court, as perhaps may be found to be the case here with this paper. I take it that it is not to be admitted upon the ordinary principle that it pertains to the rule in reference to the mingling of goods—that he who mixes his goods with those of another so that he is unable to distinguish them loses them; and he who mixes up matter in a statement which might have gone to confirm a part of his evidence, and is unable to separate the relevant part from the rest is unable to give any part of it in evidence. I do not think in all our books there is any case to be found where a document was taken and cut to pieces, and such parts of it accepted as were supposed to go to confirm the witness, and the other parts excluded.

Mr. SMITH. There is just such a case as that if I can find it.

Mr. GRAHAM. I think it is contrary to principle, because in this document, one sentence runs into another or the sense is conveyed from one sentence into another, and if you undertake to separate them they loose a large part of what might qualify that which is admitted; in other words, unless the paper be read throughout the meaning of the parts that are read may not be fully apparent.

The CHIEFJ USTICE. The counsel for the respondent may read any sentence which they propose offering in evidence; that is the only way the court can decide it.

Mr. GRAHAM. I intended to have further remarked, if the court will indulge me a moment, that that statement bears date after all the transactions had occurred for which this impeachment is brought. Except the matter of evading the injunction, everything had taken place; and the proposition is like this—the party offers to give in evidence the

statement of the witness made after he had come to court to testify in the matter.

The CHIEF JUSTICE. That only goes to the weight of the evidence and not to its competency, the books are clear on that subject; for instance, if a woman alleged that she has been subjected to a rape, the sooner she tells of it after the act the more conformatory is her statement; if she waits a year and then she reports it you can prove what she said, but of course its weight of her statement is lessened. And so here. If the witness said nothing of this until after Kirk went up there, the fact goes to the weight but not the competency of his statement. When was this paper written?

The CLERK. It was written July 29, 1870.

Mr. BRAGG. I suppose that what is read now does not go upon the record until it is received.

The CHIEF JUSTICE. No, it is only read for the information of the court.

The CLERK proceeded to read the paper for the information of the court.

Mr. MERRIMON. Now, Mr. Chief Justice, we insist that if that paper is received, the court will consent to receive a stump speech, made under the circumstances described here by this witness. A great deal of that is a mere matter of opinion a great deal more of it is a mere matter of argument, and much of it is touching matters that have not been spoken of before the court and have no connection with the case and many matters to which it refers have been excluded by the express ruling of the court when it decided that no testimony touching this organization outside of the two counties should be admitted. This paper is argumentative, it is declamatory, it is recitative and the whole of it is more of an expression of an opinion than the statement of a fact.

Mr. BOYDEN. Mr. Chief Justice, I suppose it is perfectly understood that no matter what is in the paper, it is no evidence before this tribunal of anything except to confirm the witness. No fact that he has stated in it is to go for anything

before this body except as confirmatory. That is the only view with which it is offered, and the only view in which a word of it can be received, so that this talk of stump speeches is not to the point. What weight the court shall give to it is a matter entirely with itself.

Mr. BRAGG. Mr. Chief Justice, I understand that the senate ruled on Saturday that they would not admit this paper as it stood. The counsel for the respondent have insisted that there were certain facts of it which would go to sustain the witness—that is that the statements he had made here, were similar to those he had made heretofore touching the matters as to which he has been examined on the stand. Now I wish to know if that extract which they have read here now does not infringe the ruling of the court. Everything in that paper which was objectionable is in the point which they have raised, for it extends to the greater part of the paper, and this is an indirect mode (I don't say as intended as such) of evading the decision of the court. Was the witness asked anything about "hundreds of good men who had quitted this Order," was he asked anything as to who was the head of the Order? Yet it is undertaken to put upon those records a statement that the President of the United States was the head—which I presume no man, not even the gentleman on the other side, believes for a moment. Was the witness asked any question as to that—was he interrogated as to why he was brought down here, and whether it was the condition of his family which induced him to come? And was he asked any question as to his trying to break up this order and "putting his foot" upon it? He has not said so. And so, from the beginning to the end, there are but one or two isolated facts that come within the rule adopted by the court, and those are that he was arrested and brought down here. There is hardly anything more in that long statement than that he was a member of the order, that there was a certain obligation, nothing else. I say that such evidence is directly in the face of the ruling of the court on Saturday, and I cannot see how the paper is to be admitted.

Mr. BOYDEN. Mr. Chief Justice and Senators, I think it proper to state here that I never, until to-day, knew what was in that letter until I heard it read to-day, and it is all new to me. But I do say that nearly every word that was said is confirmatory of the witness. There are some few things that he was not examined upon, and perhaps have nothing to do with the case. I am perfectly willing that all those parts should be stricken out. I admit that he was not asked about this matter of Andrew Johnson being the head of the order, because that was excluded, together with one or two other matters contained in it. If the gentleman will point out any line or idea that does not go to confirm the witness in what he swore to here, I am perfectly willing that it should be striken out. But was it ever the case that when a witness had given testimony upon the stand a statement made by him on a former occasion confirmatory of that statement was not admitted? If there is any way of separating it I am willing that the other side should have the benefit of that separation; but that the statement is competent according to the rule nobody can doubt.

Senator JONES. Mr. Chief Justice, I desire to ask the question whether this paper has been offered before in a case or has been proved by any other testimony than that of the witness himself, or whether it is proposed to prove it by him.

Mr. GRAHAM. It has not been offered before.

The CHIEF JUSTICE. They propose to prove by the witness himself that he wrote it, he has already been asked in reference to some paper that he wrote.

Mr. BRAGG. Mr. Chief Justice, the learned counsel admits enough to sustain the point I just now made—that the objection which I take is sufficient to reject this evidence according to the ruling by the court on Saturday. Now the gentleman is very gracious and says if we will just point out what they ought to offer they will offer that. It is not for us to point out such points. We would find it very difficult to do so and to disconnect anything to be elminated from this paper

and I think the learned gentleman on the other side will find it difficult also.

Mr. CHIEF JUSTICE. The counsel for the respondent (Mr. Boyden) will strike out all those parts except those which he intends to introduce. The presiding officer does not really see the object of so much discussion about this paper, because when it goes before the court they will of course give it such weight as they may think proper. Still if it can be separated in any way——

Mr. GRAHAM. We think it is lumbering up the case with unnecessary matter.

The CHIEF JUSTICE. But that is a matter for the court to decide hereafter; if the paper is competent they will pass upon it.

Mr. GRAHAM. There is in the paper not only much irrelevant matter, but matter prejudicial as well. I hope in its amended form as offered we may at least see what it is.

Mr. SMITH. Mr. Chief Justice, I desire to make one or two brief remarks in connection with this point. I confess to the court that the only legal view I can take of this whole matter is that where there is mingled both relevant and irrelevant conversation, the court is obliged to hear it all. In the courts where justice is ordinarily administered the judge instructs the jury to allow none of the evidence to influence them except such as the court, upon the examination of the paper, holds to be competent.

It is true that sometimes the making of a proposition to introduce testimony as well as the hearing of it prejudices the jury. That is perhaps an informity common to all tribunals, and our system, as far as can be, seeks to avoid those results by the judges instructing the jury to disregard the objectionable part, just as if the witness were allowed to testify and his testimony should turn out to be incompetent, the judge would withdraw his testimony from the consideration of the jury. But I do not understand this new view of things taken on the other side. I do not see upon what principle it is they would exclude from

being read evidence that we think competent because they think it incompetent. How this court can pass upon evidence without hearing it I do not understand. Why, sir, in ordinary trials we are compelled to state to the court in general terms the sort of evidence we offer; or if to be a written paper, we hand that paper up to the court to examine, but here not only the presiding officer but the whole senate is the court. This paper is presented to the consideration of the court and it necessarily is heard by the jurors as well as by the judges, and the effect of it is then learned by the court. The court have decided to exclude this letter as an entirety on the ground that some of it is inadmissible, and in that respect they did not know what they have excluded. For what senator knows what is in that paper except from our discussions? It has never been wholly read. It may be material and we ourselves may not think it material. We have the right, whenever we offer testimony, to let the senate know what that testimony is. They have a right to reject it. When it is rejected it is no longer a matter of discussion, it is stricken out and it is not a part of our proceedings as to the final results; but the fact will stand upon the record that it was offered and rejected. It is our duty to our client to offer it. He requires it at our hands and if the offer is not made to appear by the record, it will seem that we failed to do our duty. We desire it to appear that we offered it, and if it be rejected, let that also appear, so that no fault may lie at our door.

My friend on the other side (Mr. Graham) said that when a witness mixes up the good with the bad, it is all to be rejected because he has no right to place things in that condition. My friend forgets that this is not the right of the witness that we ask—it is the right of the respondent to have that evidence received. The witness stands upon his testimony, but the respondent has the right to the evidence offered here on Saturday. Contrary to the view of the counsel, I say that when different matters are mixed up in that way the rule must be to admit as evidence all that is proper and reject the residue. You

have got to see it all to discriminate between what is admissible and inadmissible.

Senator EDWARDS. Mr. Chief Justice, if the gentleman will allow me, I will state that we decided this question on Saturday. Why argue it again to-day?

Mr. SMITH. I am now discussing the general proposition of the right to this portion of the evidence. I suppose the senate has rejected the letter as an entirety. We are now discussing what is proper in the letter and what is not. The senate has not rejected the portions of the letter that are proper. I was going to say that there is in this state a decision—I think it is in the 63d volume of North Carolina reports—where the court did allow a part of a conversation to be given in evidence and rejected the other part. The decision was that, so far as the word spoken were a part of the act, then the subject of inquiry, they should be admitted, but the residue of the conversation not coming within that description of admissible testimony should be rejected. That is the principle upon which I ask that this letter be read. I don't know myself what parts are admissible not having read it at all, but we do think that the principle is a correct one, that if there is affirmative and corroborative testimony in that letter we have a right to it and that it can not be withheld because the witness has mixed up the irrelevant matter with it.

Senator TROY. Mr. Chief Justice, the senate decided this question on the whole letter on Saturday. I now move that the portion that has been read to-day be excluded.

Senator ROBBINS, of Davidson. Mr. Chief Justice, before the question is put I would like to understand what is the exact point we are called to vote upon. I understood the court rejected the letter as a whole. I think it proper for the counsel for the respondent to point out the particular parts which bear upon the testimony here. If they are unable to do that I suppose the decision excludes the whole letter. But if the counsel can point out the parts which confirm the testimony, I shall be ready to vote upon the question.

Mr. BRAGG. I understand they propose now to offer in evidence all except the last clause which the counsel (Mr. Boyden) has stricken out—the advice to the people of the county.

Mr. BOYDEN. And all except that about President Johnson.

Senator WHITESIDE. Mr. Chief Justice, I ask for a reading of that portion of the letter which it is now proposed to offer.

The CHIEF JUSTICE. It will be read for the information of the senators.

Mr. BADGER, of counsel for the respondent, read the portion of the letter which was proposed to offer.

Mr. GRAHAM. Now, Mr. Chief Justice, I would ask what the portion which has been read has to do with the testimony? How does the object of the witness to privately withdraw from the order and that "he put his foot upon it" go to confirm his statement? It is also stated in the letter that one of his objects in becoming a candidate was that he might counteract its effects.

Mr. BOYDEN. That is all stricken out.

Mr. GRAHAM. Well, sir, there is none of it amounts to anything in the way of confirmatory statement.

The CHIEF JUSTICE. The presiding officer decides that so much of it as has just been read is competent evidence. The weight which the senate will give to it is for them to decide.

Senator WORTH. I don't think it is understood that the motion is to exclude that portion of the testimony which has been read. The presiding officer has got it reversed.

The CHIEF JUSTICE. The presiding officer will put the motion in this form: Those who are in favor of receiving the evidence of the last portion read will say yea, and those opposing it will say nay.

The CLERK proceeded to call the roll on the admission of the portion last read.

The name of senator Jones was called.

Senator JONES. Mr. Chief Justice, with the permission of the senators I desire to say in explanation of my vote that while I cannot concede the general principle that the testimony of a witness, as to some statement made by him at some previous time comes within the rule argued by the counsel, I am willing to admit the portions of the statement offered by the counsel for the respondent because one of the counsel for the managers has admitted that the witness did make such statement at the time specified. I therefore vote yea.

The name of Senator ROBBINS, of Davidson, was called.

Senator ROBBINS, of Davidson. Mr. Chief Justice, I desire to say in explanation of my vote, with the permission of the senators, that I think there is a great deal of this paper as read that has nothing to do in the way of confirming what the witness has said here. I therefore vote nay.

The call of the roll having concluded on the question of the admission of the portion of the paper last read, it was decided in the affirmative by the following vote:

Those who voted in the affirmative are:

Messrs. Barnett, Battle, Beasley, Bellamy, Brogden, Brown, Dargan, Eppes, Flemming, Flythe, Graham, of Alamance, Hawkins, Hyman, Jones, King, Latham, Ledbetter, Lehman, Manney, McClammy, McCotter, Moore, Olds, Price, Warren, Whiteside—26.

Those who voted in the negative are:

Messrs. Cook, Crowell, Currie, Edwards, Love, Merrimon, Murphy, Robbins, of Davidson, Robbins, of Rowan, Skinner, Speed, Troy, Worth.—14.

The CHIEF JUSTICE. That portion of the written statement will therefore be considered in evidence.

Mr. MERRIMON. We would like to know what it is.

Mr. Manager SPARROW. We would be glad if the gentleman would make out those portions which he does not expect to put in evidence.

Mr. BADGER, of counsel for the respondent, proceeded to read the portions admitted in the words following:

"GRAHAM, N. C., July 29, 1870.

"To the people of North Carolina:

"It has been heretofore made known through the public "press, I was on Friday, the 15th inst., arrested by Lt. Col. "Burgen of Col. Kirk's regiment of North Carolina state "troops by order of the governor of the state. I was detained "in custody from the time of my arrest until the Wednesday "following when, owing to the condition of my family, my wife "being at the time quite unwell, and her condition rendered pre-"carious on account of her distress of mind occasioned by my "arrest, and through the influence of a prominent republican I "was brought before the governor at Raleigh and permitted to "give security for my appearance when required. After my "release I returned to my county (Alamance) intending to "continue my canvass as the democratic candidate for the "house of representatives—I found upon my return there as "such candidate I would have to carry the Kuklux Klan upon "my shoulders, this I had not the impudence or disposition to "attempt to do, and at the first gathering I attended after my "return several prominent citizens, members of the conserva-"tive party, came out openly and avowed that they were "members of this organization and called aloud for its dis-"solution. I then took the opportunity to confess that I "had been a member of this same organization. I hailed "with delight an opportunity to publicly dissolve my con-"nection with an organization which I had joined under a "total misapprehension of its designs, and from which I had "privately cut loose shortly after I was initiated. I was initia-"ted into the organization known to the members thereof as "the White Brotherhood, in the month of November, 1868. "At the time I was informed that this organization was in the "interests of the conservative party, and intended to defeat en-"tirely the reconstruction acts, and to deprive the negro of all "privileges as a citizen in this country. And in the obligations was "a section which bound the members thereof never to support

"any man for office who was in favor of the civil or politica
"advancement of the colored race. There had been no out-
"rages committed in my county by this organization previous
"to the time I became a member. Shortly afterwards some
"whipping was done, and other demonstrations made by the or-
"ganization, which did not agree with my feelings. I imme-
"diately put my foot upon it as soon as I possibly could.
"Occupying the position which I did, I made no public expo-
"sition of it at that time, for the reason that my life would not
"have been safe for one moment if I had. I made it my busi-
"ness to know nothing of its operations and proceedings, and
"I used every effort in my power to have the organization
"broken up in my county, and for this reason I know that I was
"abused and accused of unfaithfulness. That the organization
"was in the interests of the conservative-democratic party,
"every man who has ever been a member will know, and all
"of its actions, so far as I am informed, were intended to secure
"the triumph of that party. I have long known that the
"operations of these organizations, if persisted in, would bring
"about a desperate state of affairs in our country."

*Direct-Examination* [resumed.]

By Mr. BOYDEN:

Q. When was the next time you met with Dr. Moore? A. At what time do you mean?

Q. In reference to the Shoffner matter? A. Sometime during the adjournment of the legislature of December, 1869. It met again in January, 1870.

Q. You don't know when that was? A. I don't recollect the date.

Q. [By the Chief Justice.] Was it before or after christmas? A. I think it was after christmas.

Q. You cannot fix the exact date? A. No, sir.

Q. You were asked on the cross-examination if you hadn't denied that you knew anything about the Caswell murder. I wish you to state what your recollection is? A. If that ques-

tion was asked me, as I stated in my evidence, I do not recollect. I did not understand it at the time.

Q. If you said "no" to any such question in the proceedings before the supreme court you did not understand the question? A. I did not understand it.

Q. You say you did not understand the question? A. I did not understand it.

Q. You did not understand the question? A. If such a question was asked I did not.

Q. Have you any recollection of its being asked? A. I have not.

Q. What did I understand you to say that at that time you knew? A. What I stated on Saturday.

Q. Did I understand you to say that you and Long talked about the matter several times since your first conversation? A. One time we talked about it since he came back from Arkansas.

Q. When did he leave for Arkansas? A. Directly after Kirk's regiment came to Alamance.

Q. Do you know what caused him to leave?

Mr. MERRIMON. I submit, Mr. Chief Justice, that that is calling for new matter.

The CHIEF JUSTICE. The presiding officer thinks that the witness stated on the previous examination that Long had been to Arkansas.

Mr. GRAHAM. But we did not cross-examine the witness on that point.

Q. When did he return? A. I think he came about the 14th December.

Q. This last December? A. Yes, sir.

Q. When was it you talked about it? A. Since that. We were talking about it one day in my office.

Q. What did he admit then? A. I don't know that he admitted anything. I simply spoke of the conversation that I had had with him in regard to Dickey's statement. I think I stated to him that in my examination I had not been asked

about the murder of Stevens, and hadn't stated that conversation.

Q. That you hadn't stated it? A. Yes, sir.

Q. What did he say to that? A. I don't recollect his reply.

Q. You mentioned that you had not been asked about it, and that that was your recollection? A. Yes, sir.

Q. Did he agree to that or not? A. He didn't dissent from it. I don't recollect what was said.

Mr. GRAHAM. I submit, Mr. Chief Justice, that this is turning the witness over for a re-examination. There was no inquiry except in reference to the single conversation that the witness had with Mr. Long, and he testified in reference to that the other day.

The CHIEF JUSTICE. As I understand it he is explaining that conversation more fully.

Mr. GRAHAM. No, sir, he has gone into another conversation which took place in December last.

The CHIEF JUSTICE. The presiding officer thinks that the witness mentioned that before, that he had a conversation with Long after he got back.

Mr. BOYDEN. That is my recollection.

The WITNESS. I think I so stated.

Mr. GRAHAM. There was a single reference to Long's statement that Dickey had told Long what the witness has here stated; but there was no conversation mentioned as having taken place at a subsequent period.

The CHIEF JUSTICE. The presiding officer is inclined to think that the witness stated that he had a conversation with Long after his return.

Q. You did talk with him after he came back? A. Yes, sir.

The CHIEF JUSTICE. As I understand it after Long came back, and before this witness went on to Washington, he talked to Long about what Dickey stated.

Q. Tell about that conversation? A. It was just as I have stated it.

Q. You say he did not dissent from that? A. He did not.

Q. You have been asked on your cross-examination if you had not taken several oaths to support the constitution of the United States before you took this oath of the White Brotherhood? A. Yes, sir.

Q. You stated that you had? A. Yes, sir.

Q. Do I understand you to say that if you were called into court you would regard that oath as binding as against an oath to speak the truth in reference to a transaction? A. Do you mean the oath of the White Brotherhood?

Q. Yes. A. I would not regard that oath like the oath taken before the court.

Q. You would feel obliged to regard the oath that you took in court instead of the other? A. Yes, sir.

Q. Do you know whether Bradshaw has returned? A. Do you mean Jim Bradshaw?

Q. Yes, sir. A. I understood that he was there a few weeks ago.

Q. Did you have any talk with him? A. I did not see him.

JOHN GUY, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. SMITH:

Q. Where do you live? A. Alamance?

Q. What is your age? A. Forty-five.

Q. How long have you lived in Alamance? A. I was principally raised in Alamance, I believe.

Q. Always lived there? A. Yes, sir.

Q. Will you state whether, on any occasion, and if so state the time and place you were visited by disguised men, and how many there were of them, and what they did—tell all the facts? A. In the first place, there were twenty-five in the company, I believe, but I do not know how many licks they hit me.

Q. How many were there? A. Twenty-five in the company.

Q. How were they dressed? A. They had on some kind of—over their faces—something like white paper.

Q. How about their bodies? A. They were white—dressed all over, I believe.

Q. When was it you saw them? A. I forget exactly what time it was.

Q. Can't you come near to it—was it this year or the previous year? A. It was the same night that Porter Dixon was whipped.

Q. Do you mean Porter Mebane—is he the same as Porter Dixon? A. Porter Dixon, I think is his name.

Q. Is he sometimes called Porter Mebane? A. I never heard him called that. He was always called Porter Dixon.

Q. What time in the day or night was it? A. Between 9 and 10 o'clock.

Q. Day or night? A. In the night.

Q. Where were you? A I was staying down at my Uncle Bill's.

Q. Where were you at that hour? A. I was at Uncle Bill's.

Q. Were you sitting up? A. No, sir, I was done gone to bed.

Q. State all that occurred, and what was said? A. I didn't hear anything, only they came and took me out and whipped me.

Q. They came into the house before they whipped you didn't they? A. Yes, sir.

Q. How did they get into the house? A. They opened the door and let them in.

Q. Then what? A. They took me out.

Q. Did they tie you? A. No, sir, they never tied me.

Q. They just ordered you out? A. They led me out.

Q. Where did they carry you? A. They carried me about three hundred yards, I reckon, from the house.

Q. To what place? A. Not far from the big road, close to Mr. White's.

Q. Was it in this road, or in a house, or in a yard, or in the woods? A. Out in the edge of an old field, just beside the *big* road.

Q. Were you dressed? A. Yes, sir.

Q. Did you have on your clothes? A. Yes, sir, I had on my clothes when they carried me out there.

Q. Did they do anything with you before they whipped you? A. No, sir.

Q. They whipped you with your clothes on? A. They took my clothes off.

Q. You pulled your clothes off? A. Yes, sir.

Q. What clothes did you pull off? A. I took off all I had on.

Q. Did you do that yourself, or were you ordered to do it? A. I was ordered to do it.

Q. Did you take off your coat? A. Yes, sir.

Q. Take off your shirt? A. Yes, sir.

Q. Then what? A. Then they whipped me.

Q. I want to know what they did to you? A. That is all I can tell about it. I do not know exactly how many there was whipped me.

Q. How many licks did you get? A. I do not know how many licks.

Q. Havn't you got the least idea? A. No, sir, I cannot tell you how many licks.

Q. How many were engaged in whipping you? A. I cannot tell. I do not know how many whipped me.

Q. Have you no idea how many were there? A. There was so many standing around that I didn't take no notice how many whipped me.

Q. What were you whipped with? A. They had switches.

Q. What sort of switches? A. I cannot tell what sort. They had wooden switches I reckon.

Q. Were you whipped a little, or badly whipped, or how? A. I was whipped very bad.

Q. Was your flesh cut any? A. Yes, sir.

Q. How many licks were you whipped—did the whipping produce blood? A. I don't know how many. I was scarred pretty much all over.

Q. What part of your body was whipped? A. I was whipped all around the shoulders and down to my hips.

Q. Did they whip you on the front part of your body also? A. Yes, sir.

Q. Any about the head or neck? A. No, sir, they never hit me in any part of the head.

Q. How much did the whipping injure you? A. It injured me a day or two. I was unable to do anything for a day or two.

Q. These men you say were disguised? A. Yes, sir.

Q. Disguised in their faces as well as their heads? A. Yes, sir, disguised all over.

Q. How did they come to your house? A. They came there with disguises on.

Q. Were they on foot or on horseback? A. They were on foot when they came in the yard.

Q. Did they have horses? A. They had horses up where they carried me.

Q. They didn't bring them into your yard? A. No, sir.

Q. How did they get away on horseback or on feet?

Mr. MERRIMON. Mr. Chief Justice, I object to the question upon the ground that he is going into details about a particular transaction. The examination is being pursued as if the witness were being examined on the trial of a party charged with the offence. All that it is required to know is whether the offence was committed without going into details. I submit that it is wasting the time of the court needlessly to go into all these minutiæ.

Mr. SMITH. I suppose we have the right to show the grave character of the offence, and to do that we have a right to bring out the details to prove the antagonism of the act.

Mr. MERRIMON. We do not object to your asking whether the whipping was severe or light, but we do object to this needless detail in reference to the matter of whipping.

The CHIEF JUSTICE. The presiding officer thinks the

counsel have a right to pursue the examination in the manner they have if they desire, although it is tedious.

Q. Have you been whipped at any other time since that? A. Yes, sir, I have been whipped since that time.

Q. How long after the first time? A. I do not know exactly how long, but something about a month after the first time.

Q. Just state without my asking you particular questions where you were, and who came, and how they were dressed, what they said and what they did? A. They were dressed about the same as when they first came. They came to my house, and took me out and whipped me. I think there was ten or twelve in that company.

Q. Where were you that night? A. I was at home.

Q. At your house? A. Yes, sir.

Q. Who was present with you? A. There was no one except my family.

Q. What does your family consist of besides yourself? A. I have no one but my children.

Q. No wife? A. No, sir.

Q. How old is your eldest child? A. The oldest I believe is going on sixteen.

Q. How many have you got? A. I have three.

Q. How did they come into the house? A. They broke the door open.

Q. What hour of the night was it? A. I reckon between 11 and 12 o'clock that night when they came that time.

Q. Were they dressed in the ordinary clothes, or were they disguised? A. They were dressed in clothes just like the first ones that came.

Q. Dressed in white? A. Yes, sir.

Q. Faces and body disguised? A. Yes, sir.

Q. What did they do with you then? A. They took me out.

Q. Did they tie you? A. Yes, sir, they tied me.

Q. Tell how they tied you, in what manner? A. They tied my arms in this way [putting his arms behind his back.]

Q. How, behind you? A. Yes, sir.

Q. And carried you off? A. Yes, sir.

Q. What did they do? A. They took me off and made me strip and they whipped me.

Q. They made you strip again? A. Yes, sir, and they hit me eighty licks.

Q. How do you know there were eighty? A. The man counted and I paid attention while he was counting them.

Q. Somebody counted them at that time? A Yes, sir.

Q. Counted them out loud? A. Yes, sir,—counted them out.

Q. While you were struck? A. He would not let but one whip at a time—that was when he counted.

Q. How many licks did you get from each one? A. There was ten I think whipped me.

Q. What were you whipped with? A. With hickories.

Q. Were you whipped badly or lightly. A. I was worst sort, I call it.

Q. Was your back cut—your skin cut? A. Yes, sir.

Q. What part of the body was whipped? A. They just whipped me on the back.

Q. Not in front? A. No, sir.

Q. You say you had on no shirt or jacket? A. No, sir, none at all.

Q. What else did they do, did they tie you? A. When they got done whipping me, they tied me to a tree.

Q. How did they tie you? A. They tied my arms around the tree behind in that way, [illustrating.] After they tied me they went away.

Q. With your back or your face to the tree? A. The back.

Q. You were not tied to the tree when you were whipped? A. No, sir.

Q. You were tied in that way up the tree after they whipped you? A. Yes, sir.

Q. Were they on horseback or on foot? A. They were on foot.

Q. They had no horses? A. No horses at all.

Q. What sort of weather was it? A. It was a wet, drizzling, rainy night.

Q. Warm or cold? A. It was not so very cold.

Q. How did you get loose from that position? A. Two of them came back and untied me.

Q. Then you went home? A. Yes, sir.

Q. Did you know any of the parties there at that time? A. I knew the biggest part of the last ones; they didn't live very far from me. They were close neighbors.

Q. You thought you knew them? A. Yes, sir.

Q. State their names? A. Eli Barton, Lem. Johnson, Bedford Patton, Fayette Blanchard, Wash. Fonville, William Alwood, [or Albert, the stenographer, did not understand which] Jim Haywood McAdam, Joe. Hamilton, John Mann Tear, John Ray. I believe that is all I recollect.

Q. How did you know these persons? A. I was very well acquainted with them. I have been used to them long enough to know. I knew them by their voices.

Q. Do you remember when Outlaw was hung? A. I heard tell of it.

Q. You remember when you heard of it? A. Yes, sir.

Q. How near to that time were you whipped? A. I think I was whipped before Outlaw was hung.

Q. How long before? A. A very short time.

Q. That is the last time you were whipped? A. Yes, sir.

Q. And the other was a month before that? A. Yes, sir, I think about a month.

Q. Have any of these men been prosecuted for whipping you? A. No, sir.

Q. Have they been indicted? A. Not as I know it.

Q. Have any of them been punished? A. I don't think they have.

Q. Have you been a witness? A. No, sir.

Q. Why have you not been before the grand jury? A. I

was afraid to go to the grand jury. I could not have stayed at home if I had.

*Cross-Examination.*

By Mr. MERRIMON.

Q. Why did they whip you? A. This last time I was whipped because they said I told of another man that I suspicioned him being a Kuklux.

Q. What did they say they whipped you for? A. They told me because I accused a man of being a Kuklux.

Q. They whipped you for that? A. Yes, sir.

Q. What did they whip you the other time for? A. The first time was because I had married a white woman.

Q. Did they say you were a white man? A. They said not.

Q. They said you were a negro? A. Yes, sir.

Q. Are you understood to be a colored man? A. Yes, sir.

Q. Were you always treated as such? A. Yes, sir.

Q. And you married a white woman? A. Yes, sir.

Q. When was that? A. Three years ago.

Q. I thought you said you did not have a wife when they came? A. They parted her and me.

Q. Were you married at all? A. Yes, sir, we were married.

Q. Were you married before a magistrate—did you go before a justice of the peace? A. It was a preacher I believe.

Q. Who was he? A. His name was preacher Beale, I think.

Q. Did you get a license from the court? A. Yes, sir.

Q. Where at? A. Graham.

Q. Were you indicted in court for it? A. No, sir.

Q. Never? A. No, sir, no indictment only that night. That is the only indictment I got.

Q. Did they charge you with stealing? A. No, sir, they did not charge me with stealing.

Q. Did they ever charge you with stealing? A. No, sir.

Q. Where were you first whipped, in Alamance? A. Alamance at that time.

Q. What part? A. Hawfields was the first place I was whipped.

Q. Where did Martha Dill come from that you married? A. She was a McAdams.

Q. Where were you whipped first? A. At Uncle Bill Gray's.

*Re-direct examination.*

By Mr. SMITH:

Q. You were asked whether you were a colored or a white man. Were your father and mother white or colored? A. They were colored.

Q. Your father and mother both? A. Yes, sir, I reckon they were. My mother was said to be a colored woman any way.

Q. That there was colored blood in her? A. Yes, sir.

Q. Was she as white as you are? A. Yes, sir, I reckon she was. I think if anything she was whiter.

Q. Was your father whiter, or less so than you? A. I don't know. I was two years old when my mother was married.

Q. You don't know anything about him? A. No, sir.

Q. [By Mr. Merrimon.] Did they have horns on, these men that whipped you? A. Yes, sir, they had horns on.

Mr. GRAHAM. The Guy's have always been regarded as colored people up there.

Mr. BOYDEN. This witness is certainly beyond the limit. It is very apparent that he is a white man.

Q. Which party do you belong to? A. I belong to the radical party.

GEORGE D. BOONE, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. SMITH:

Q. Do you know anything about disguised men coming to your house? A. None ever came to my house.

Q. Did you ever see any? A. I saw some one night passing from Graham, in the woods near the railroad. I saw them

some seventy-five or one hundred yards off dressed in white. I did not go any nearer. They were passing on the road.

Q. Day or night? A. It was in the night about ten o'clock.

Q. When was it? A. I think, as well as I remember it was last November two years ago.

Q. November, 1868? A. Yes, sir.

Q. Did they say anything to you or anybody else that you know of? A. No, sir.

Q. How were they dressed? A. They were dressed in white.

Q. What part of their bodies? A. All over. They were dressed from their appearance in long gowns.

Q. How many of them were there. A. They looked to me from twelve to fifteen.

Q. What were they doing? A. They were on foot standing still. I saw them and passed along by on the road.

Q. Do you hold any office? A. Yes, sir, I am postmaster at Company Shops.

Q. Did you ever get any warning about your safety? A. Yes, sir, last March a year ago, I don't recollect exactly what day in the month.

Mr. GRAHAM. Mr. Chief Justice, I don't see how this is evidence. It is mere hearsay, as I understand it.

The CHIEF JUSTICE. If the witness had a warning, the presiding officer thinks it is competent to prove it.

Q. What sort of a warning was it—papers? A. Yes, sir.

Q. [By Mr. Gramam:] Where is the paper? A. The officer at that time? There was at Graham some United States troops; and he took it from me and sent it to the colonel at this place the next day.

Mr. GRAHAM. I submit that the paper ought to be produced.

The WITNESS. I don't know where it is now.

Mr. SMITH. The notice as I understand it was put upon the tree.

Mr. GRAHAM. I understand the witness to say that he

gave the paper to an officer of the United States troops. The presumption is that the paper was produced.

Q. Have these troops gone out of the state? A. Yes, sir.

Q. Do you know where they are? A. No, sir.

Q. Do you know what has become of them? A. No, sir, I saw it the next day at this place; the colonel of the regiment had it.

Q. When did you first see it? A. I saw it on a Friday morning.

Q. Where? A. Company Shops.

Q. What was it? A. It was posted up on a tree on the road from the railroad office where I passed through to my office. I did not see it when I went through the first time, but a short time after that my son came and told me——

Q. You need not state what your son told you. In consequence of what you were told what did you do? A. I went and took the paper down from the tree—and I think the first person I showed it to was Mr. Waite, the master mechanic, and he said he could not advise me what to do.

Mr. GRAHAM. You need not state what he said.

Q. State what sort of a paper that was? A. The first thing on the paper was a tree. It was drawn on the paper with myself and two colored men, Alfred Trollinger and Levin Barton. Then there were three coffins on the picture, and on each one of the coffins was one of our names.

Q. Your names were on the paper? A. Yes, sir, on the coffin.

Q. With representations of three persons suspended from the tree? A. Yes, sir.

Q. And your name and the names of two colored men on the coffins? A. Yes, sir.

Q. When was that? A. Last March one year ago. I don't exactly recollect the day of the month.

Q. Do you mean a year ago from this March? A. March, 1870.

Q. You don't recollect the day of the month? A. I don't recollect what day of the month it was.

Q. Was that before or after the United States troops were sent there? A. The troops came to Graham the week before.

Q. The Federal troops? A. Yes, sir.

Q. One week after they had a meeting there? A. Yes, sir.

Q. Did you ever have any visit from these disguised men? A. No, sir, none at all.

Q. That is the only transaction you know anything about? A. That is the only one.

Q. Yours and the others names were marked on the coffins? A. Yes, sir.

Q. On a picture of a coffin? A. Yes, sir.

Q. What was the inscription? A. Along on the corner was written, "You three d—d sons of b——s, we intend to get shut of you." Then below that was my name with, "You d—d son of a b——h, we intend to coil this rope around your neck."

Q. Anybody's name signed to it? A. Three K's.

Q. But nobody's name? A. Nobody's name at all?

Q. What time was it put up, in the day or night? A. I think it must have been put up in the night.

Q. When did you first hear of it? A. I never heard of it until the next morning, after I passed through there.

Q. What time did you go there? A. I passed through there about half-past six o'clock.

Q. That was about sun rise? A. About that time.

Q. You saw it when? A. About eight o'clock as well as I recollect.

Q. What political party do you vote with? A. I vote the republican ticket.

Q. How long have you been postmaster? A. I have been postmaster nearly four years—next July it will be four years.

Q. You are still postmaster? A. Yes, sir.

Q. Have you any other business beside holding the office? A. Yes, sir, I work there at the shops.

Q. What sort of work? A. I have charge of some men there in the yard.

Q. Connected with the railroad? A. Yes, sir.

Q. How old are you? A. I will be fifty-three the 17th of next July.

*Cross-Examination.*

By Mr. MERRIMON:

Q. The first night you saw these disguised men, did they see you? A. I don't know whether they did or not.

Q. How far were you from them? A. I think 75 or 100 yards. I was passing along the road at Graham up to Company Shops.

Q. What time was this notice put up there? A. I don't know what time. I did not see it until eight o'clock.

Mr. SMITH. Will the counsel permit me to ask a question or two which I omitted?

Mr. MERRIMON. Certainly.

*Re-Direct Examination* [resumed.]

By Mr. SMITH:

Q. Do you know anything about the whipping of Corliss? A. No, sir, I never knew anything about it until the next morning.

Q. Did you see him after he was whipped? A. I did not.

Q. You only heard of it? A. That is all, sir.

Q. Do you know anything about any whipping in that neighborhood? A. Of my own knowledge I do not.

Q. Did you see anybody that was whipped? A. I saw one colored man.

Q. I mean did you see marks of whipping upon him? A. No, sir, I did not.

*Cross-Examination* [resumed.]

By Mr. MERRIMON:

Q. Who it was who put that paper up you do not know? A. I do not.

Q. Did some mischievous boys around town put it up? A. It was thought so.

ALFRED TROLLINGER, (colored,) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. SMITH:

Q. Did you see the picture the last witness spoke of? A. Yes, sir, I saw him have it in his hand. He did not stop to show it to me particularly.

Q. Was it the picture that he has spoken of? A. Yes, sir.

Q. Were you the person named there? A. Yes, sir.

Q. What did you see on the paper—can you read? A. I can't read enough to make out writing.

Q. What did you see on that paper? A. I saw it had red letters on there

Q. Did you see the picture? A. Yes, sir, I saw the coffin on there.

Q. What else? A. A rope. It was drawn there with a rope around my neck.

Q. You were all hanging up there? A. Yes, sir—we were in the picture.

Q. Did you see any disguised men, ever? A. No, sir, I never saw any that I can say.

Q. Do you know anything about the whipping of Corliss? A. I did not know anything about it until after his wife come down there that night.

Q. What did you see and hear of the whipping? A. I just saw her coming down after something, that is all I know. I did not see any of the men.

Q. Had she been injured any? A. Yes, sir, she had been struck on the forehead. The skin was knocked off.

Q. Any blood? A. Yes. sir, on her arm, she was struck on her wrist.

Q. Was she complaining or not? A. Yes, sir.

Q. What did she say about hurting here? A. She was suffering very much.

Q. How was she dressed? A. She had nothing on except the clothes she slept in.

Q. Did you hear any noise about that time? A. No, sir, I could not hear any noise anywhere only just from her.

Q. You have not heard of any whipping going on? A. No, sir.

Q. Did you hear any halloaing? A. No, sir, no more than her screams.

Q. Did you hear halloaing before you saw her? A. Yes, sir, I heard that before I saw her. I opened the door and came out.

Q. That is what roused you up? A. Yes, sir.

Q. What sort of a noise was she making? A. She was halloaing murder and halloaing for help.

Q. Then shortly after did you meet her as you state? A. Yes, sir.

Q. Did you see any one else that night? A. I saw the watchman at the Shops there.

Q. Did you see anything of Doctor Moore? A. Yes, sir.

Mr. GRAHAM. I ask what difference did it make supposing that he did?

Mr. BOYDEN. It simply confirms the statement of Doctor Moore.

Q. Did you see Corliss after he was whipped? A. I did not see him until after he came to the Shops where I was.

Q. Did you see him the next day? A. No, sir, I did not see him until he came down to the Shops.

Q. How long was that? A. They gave him ten days to go away in and he came about that time.

Q. He came down on crutches? A. Yes, sir.

Q. Was he complaining? A. His head on one side was all shaved off. He pulled off his hat and showed me the scar.

Q. Was there any marks of whipping about his body? A. No, sir.

Q. What has become of him since? A. The last I heard of him he was in Danville.

Q. He has gone out of the state? A. Yes, sir, he came to

church that night and preached before us, and I sent a couple of boys home with him.

Q. What political party do you act with? A. I never acted with but one yet.

Q. What is that? A. The radical party. I never had connection with any other party than that.

*Cross-Examination.*

By Mr. MERRIMON:

Q. Do you belong to the League? A. Yes, sir, I did.

Q. What obligation did you take? A. I never got into the particular parts I reckon.

Q. Did they swear you? A. No, sir.

Q. Do you mean to say they didn't swear you? A. No, sir, they did not.

Q. Did you join in the day time or in the night? A. I joined at first in the day.

Q. Did you meet in the night with them? A. Yes, sir.

Q. Did you ever take any message from Mr. Burgen to Mr. Clem Curtis? A. No, sir

Q. You never did? A. No, sir—Clem Curtis do you say?

Q. Or any other Curtis? A. A message?

Q. Yes, sir, about some whiskey? A. No, sir, I don't know. I do not deal with any such.

Q. Did Burgen send you any where? A. I did not know him except I saw him walking through the field.

Q. What is your name? A. Alfred Trollinger.

Q. Did you not carry a message from Burgen? A. No, sir, I did not.

Q. They never disturbed you, any of them? A. No more than the threat that was put upon a cloth one Saturday night just before the court took place in Graham. There was a white cloth put up a yard long on which it said, "Alfred—beware of the court putting you to death." The same words on the cloth were spoken to me that night.

*Re-direct-Examination.*

By Mr. SMITH:

Q. By whom? A. By Henry Pickard and Joseph Nelson. My wife was very sick when I came down from the Shops, and she told me that her mother thought she had better have a little whiskey to make her some toddy. I went to a neighbor's house, and told the man to go. I didn't want to go. That was something I didn't deal in. Then his brother said that there was a wagon close by where they were selling it for a dollar and a half a gallon, and I went over and got it myself.

Q. Where was the white cloth put up? A. At the Shops.

Q. Where you lived? A. Where I lived about half way from the railroad in front of Thornburg's house.

Q. Was there any picture on it? A. Nothing but my name.

Q. These words that you spoke of just now? A. Yes, sir.

Q. When was that? A. That was just after court had taken place on Saturday night. The court was on the second Monday.

Q. What court? A. The last court last year.

Q. There are two courts, the spring and fall? A. It was the fall court.

Q. Was that before the hanging of Outlaw? A. It has been since the hanging of Outlaw.

Q. [By Mr. Bragg.] After Kirk came there? A. Yes, sir.

Q. After he went away? A. Yes, sir.

Mr. BRAGG. Mr. Chief Justice, that certainly is inadmissible.

Mr. BOYDEN. The fact was called out on your cross-examination.

WILLIAM McADAM, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. SMITH:

Q. Do you know Peter Mebane? A. Yes, sir.

Q. Does he go by some other name some times? A. Yes, sir, they call him Peter Dixon sometimes.

Q. Did you ever see him whipped, or after he was whipped? A. Yes, sir, I saw him after he was whipped.

Q. When was that? A. I think it was in the fall of 1869.

Q. How long had he been whipped when you saw him? A. I saw him the next morning after he was whipped.

Q. What was his condition, and how was he whipped? A. He was badly whipped.

Q. Give some idea of how he was whipped—what injury was done? A. His back was cut all over.

Q. With welts upon it, or was the skin cut? A. Deep gashes in his back, deep enough to lay your finger in I noticed.

Q. Was the skin cut at all in other parts? A. Yes, sir, it was cut in several places. He seemed to be whipped all over his back.

Q. Do you know how long he was disabled from work? A. He was not of much account for three, four or five days. He worked with me.

Q. Where did he live at the time he was whipped—on your premises? A. He lived on my place.

Q. In a house by himself? A. Yes, sir, about a quarter or half a mile off.

Q. You didn't know at the time the whipping occurred A. No, sir, I didn't know anything about it at the time. His wife came running to my house squalling in the night.

Q. Did you hear any screams? A. Yes, sir.

Q. From whom? A. From his wife.

Q. From what direction? A. As I heard her, she was right in my house.

Q. Did you hear any one make a noise as if being whipped or anything of that sort? A. No, sir.

Q. All you know is the condition of his wife when she came into your house? A. Yes, sir.

Q. How large a family has this boy Mebane? A. He has three children.

Q. How old? A. They are all small—the oldest, I reckon is not more than five years.

Q. What hour of the night did his wife come to your house? A. I think about 11 o'clock. I had been asleep. I don't recollect the exact time.

Q. Had she been injured herself in any way? A. I think not.

Q. How long have you known this man? A. Ever since he was a small boy.

Q. Do you know what his character is? A. His character is good, as far as I know.

Q. You have known him ever since he was a boy? A. Yes, sir, his old master gave him a good recommendation. He was a great deal better than common, and that is one reason I took him.

Q. A good character for what? A. For honesty and industry.

*Cross-Examination* waived.

SEYMOUR P. HOLT, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. Smith:

Q. Do you know Henry Holt? A. Yes, sir.

Q. The man who has been examined here? A. Yes, sir.

Q. There are two of them—which one was it? A. I know Henry Holt, a yellow boy, who was examined here the other day.

Q. Do you know of his being whipped at any time—did you see him shortly after he was whipped? A. I think it was in the fall of 1869, as well as I recollect.

Q. You saw him the next morning after he was whipped at night? A. Yes, sir.

Q. Did you examine him? A. I examined his right arm only.

Q. Did you examine his back? A. I did not.

Q. How much was he whipped? A. There were several welts on his arm—raised bruises, streaks.

Q. Was he complaining of his condition? A. Yes, sir, he complained of being pretty badly whipped.

Q. Of its hurting him? A. Yes, sir.

Q. You didn't examine anything but his arm? A. I did not.

Q. Was he working with you? A. He was not working directly with me. He was living on my land. I raised him, and he had been living there ever since his freedom. I had him as a tenant.

Q. He complained of his back hurting him? A. Yes, sir.

Q. Was he disabled? A. I cannot say.

Q. You don't know that he stopped work? A. I don't know that he did.

Q. How long have you known him? A. I have known him ever since he was born.

Q. Do you know what his character is among those who know him? A. His character is as good as any man of his color in this state, I reckon.

Q. For what? A. His character as a man of truth and honesty.

Q. Have you known him from childhood? A. I have known him ever since he was born.

Q. What is his age? A. I reckon he is thirty-one or thirty-two years old.

Q. Have you been and are you a magistrate in the county? A. Yes, sir, I have been a magistrate about three years.

Q. And you still are? A. Yes, sir.

Q. Do you know whether there has been any body punished for whipping Holt? A. There has not.

Q. Do you know whether there has been any punishment of any body for whipping persons in the county—I mean punishment by law? A. I do not.

Q. You say you knew of no instance of an outrage being punished by legal proceeding? A. I do not.

Q. Have you ever been on the grand jury? A. I have not.

Q. Have persons complained to you and got out a warrant?

A. None except in the case of Gappins. She came and made an application.

Q. This woman who was examined the other day? A. Yes, sir.

Q. Was it about tearing down her house? A. Yes, sir.

Q. Do you know whether by general reputation there have been many outrages committed in the county which were not punished.

Mr. BRAGG. We object to the question.

The CHIEF JUSTICE The presiding officer thinks the question is not competent, under the ruling—that a general rumor cannot be given.

Mr. SMITH. I am trying, Mr. Chief Justice, to show that the civil authority of the county was powerless.

The CHIEF JUSTICE. The witness has stated that the civil authorities have never interferred to his knowledge.

*Cross-Examination.*

By Mr. MERRIMON:

Q. Do you belong to the Union League? A. No, sir, I do not belong to any secret organization.

Q. Have you ever? A. Never.

Q. You issued warrants when people applied for them? A. Yes, sir.

HENRY M. RAY, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. What is your name? A. Henry Milton Ray—H. M. Ray I am called.

Q. What is your age? A. I am forty-one years.

Q. Where do you live? A. I live in Alamance county.

Q. How long have you lived there? A. I was born in that county before it was divided from Orange.

Q. State whether at any time in the year 1869, up to the time of the hanging of Outlaw, you have seen disguised men in the county of Alamance and if so how were they disguised?

A. On the 19th of February, 1870, I saw a band of disguised men in Alamance county at Alexander Russell's, a brother-in-law of mine, near Clover Orchard cotton factory.

Q. How many were there—state all you saw? A. There were ten or a dozen that I saw. I was seventy-five yards from them. They did not come inside the yard.

Q. What did they do? A. I heard my brother-in-law call to his son and ask him if he had ever seen any disguised men? He said he had not and he come down and I dressed and I found them talking with my brother-in-law.

Q. Describe how they were disguised? A. As near as I can tell they looked to me all disguised in white except one and he was in black. The moon was shining and I could just see that they had the appearance of men on horses.

Q. They were mounted? A. Yes, sir, and the horses were covered.

Q. What did they do? A. They did not do anything except called my brother-in-law and told him what they had done at another place.

Q. Did you hear that conversation? A. Yes, sir.

Q. Between them and your brother-in-law? A. I could hear the conversation but I could not understand it from where I was. I knew nothing of the conversation except what he told me afterwards.

Q. Tell us whether or not you have seen any persons who have been whipped? A. Yes, sir, the next morning he told me what they had said, and he proposed for us to go and see if they had done what they said they had done. We accordingly took the tracks of the horses and followed them to John Overman's house in the edge of Chatham county, about a mile and a half from the line, and we found they had done what they had said. We found Overman with one side of his hair cut off very close and he had been whipped. We examined his back.

Q. What was his condition? A. He was whipped; I did not consider that he was very badly whipped, although the

marks of whipping were along on his back. I think I saw about four marks as well as I can recollect distinctly, on the right side of the back just over his shoulder blade.

Q. Four distinct marks? A. Four or five; I am positive there were as many as four.

Q. Did you hear a letter read in evidence signed by Hardin, yourself and several others, to Governor Holden in regard to the murder of Outlaw? A. I did.

Q. Did you sign that letter? A. I did.

Q. Who brought it to the Governor? A. I did.

Q. Did you deliver it to him? A. I did.

Q. State what information you gave to the governor in regard to the condition of Alamance county? A. I gave him information that I had been able to receive from different persons, magistrates and others, particularly in the town of Graham and some two or three around.

Q. What was it? A. That the civil law was powerless to keep the peace and punish offenders. I asked for military aid.

Q. You gave the governor that information? A. Yes, sir.

Q. You had acquired that from magistrates and citizens? A. Yes, sir.

Q. That the civil law was unable to punish offenders and keep the peace and you asked the interposition of the military? A. I did.

Q. Did you tell him how many outrages had been committed? A. I did not state how many. They were almost numberless—I did not know exactly how many.

Q. Did you tell him whether they had been punished? A. I told him as well as I recollected that there had been none punished.

Q. Did you tell him whether or not they had been punished? A. I gave him the information I had from the parties with whom I had had conversations, that they could not be punished by the civil authorities.

Q. How many times did you see the governor before he sent Colonel Kirk's command in reference to the condition of Ala-

mance? A. I cannot state. I don't recollect, but I saw him several times.

Q. What kind of advice did you give him at these different times? A. He asked my advice, and I just remarked to him that he had counsel, that he could call them together, and take their advice, that I considered his counsel were better able to give him advice than I was, or any other individual.

Q. Did you continue then in that meeting to talk about the condition as you did before? A. Yes, sir.

Q. Are you a member of the Union League? A. I was. I do not consider there is any such orgonization now.

Q. Are you acquainted with the constitution and by-laws of it? A. Yes, sir.

Q. Have you them here? A. I have.

Q. Will you produce them? A. Yes, sir.

[The witness produced a pamphlet and handed it to the counsel.]

Q. Is this a correct copy of the constitution and ritual of the Union League? A. Yes, sir, all the copy I have ever seen, or had anything to do with.

Mr. BADGER. We offer this in evidence.

Mr. MERRIMON. What edition is that?

Mr. BADGER. It is printed at the Great Republic office, Washington, in 1867.

Mr. BRAGG. You do not propose to put the whole of that in evidence?

Mr. BADGER. We propose to have it printed in the Appendix as a part of the evidence in the case.

Mr. GRAHAM. What part do you propose to put in? I would like to have it read here. I think that whatever it is it should be put in evidence in order that we may understand it as we go along.

Mr. McCORKLE. We suppose it would not be proper to put in evidence detached parts of it, for the reason that the order has been attacked by the mangers upon the ground that the organization was illegal, and as subversive of the law as

the Kuklux. For the purpose of rebutting that we offer the whole of the constitution, by-laws and ritual in evidence so that the court can see whether its purposes are illegal or otherwise.

The CHIEF JUSTICE. The presiding officer thinks that it is hardly worth while to read it, that it may be considered in evidence and printed.

Mr. BADGER (resuming).

Q. Were you president or chief of a League? A. I was not a chief.

Q. State whether you met in the day time? A. Yes, sir.

Q. Did the meetings meet at night also? A. Yes, sir.

Q. Did members make any concealment of the fact that they were members of the league? A. Not that I know of.

Q. Did they ever meet in the woods? A. No, sir.

Q. Did you ever parade with the Union League marching about? A. I never did.

Q. Did the League? A. I don't know as they did as an organization. There were no instructions to that effect.

Q. Were any purposes of the Union League illegal—were they required to do anything like going around and burning barns? A. Nothing unlawful.

Mr. BADGER. Mr. Chief Justice, inasmuch as we fear if it is printed it will never be read, we ask that the document may be read.

The CHIEF JUSTICE. You have a right to read it in evidence.

[The Clerk proceeded to read portions of the pamphlet in evidence].

Senator ROBBINS, of Rowan. Mr. Chief Justice, I move that the portions which the counsel desire to put in evidence be printed in the Appendix. It is not necessary to encumber the printed report of the proceedings with it. To do so would only cause delay in the printing of our daily proceedings.

The CHIEF JUSTICE put the question on motion of Senator Robbins, of Rowan, and it was decided in the affirmative.

By Mr. BADGER (resuming).

Q. In that constitution and by-laws are there any instructions that the members of the Union League are authorized to go disguised? A. I never heard such a thing named.

Q. Did you ever know of them going in disguise? A. I did not

*Cross-Examination.*

By Mr. MERRIMON:

Q. Did you belong to the Heroes of America? A. I did, sir.

Q. [Handing a paper to the witness.] Is that the ritual of the first degree? A. Well, hold on till I discover. I cannot answer till I have examined it—I shall have to have time to see what it is. [The witness examines the document.] I see one thing here that is not as I have ever been informed. The 133d Psalm was not in the ritual that I was initiated by.

Q. Have you got the ritual? A. I haven't it at present, sir.

Q. Look at the oath there. That is the principal part that I want you to look at and see if that is the oath of the first degree? A. Well, sir, I cannot say that it is exactly, I don't think it is, sir.

Q. You think that is not it? A. I don't think it is.

Q. Will you swear that isn't it? A. I do not. I cannot say whether it is or not. I can state that I was only initiated, and the obligation that was given to me I never saw. It was in the time of the war and I was only—well, I may say the obligation was given to me verbally, and that is all I know of it.

Q. Did you get the three degrees? A. No, sir, I don't think—

Q. Are there three degrees? Well, I don't know, sir, how many degrees there are.

Q. What did they tell you when you were initiated? A. I can't recollect what was said to me. I recollect about when it was and where it was, and that is about all that I can recollect about it, because I was only just given the obligation, and it was a very cold day and I was very cold, I know, and in a bad condition to take an obligation or know much about what was given me.

Q. Still, you don't think that was the obligation? A. I think it is, in part, but not altogether. I know this second part, "The president then reads the second chapter of Joshua." That was in it.

Q. I am asking you about the oath? A. I don't think it is. I cannot say whether it is or not.

Q. How does it differ from what you swore to? A. Well, I thlnk in the part where it says, "I affirm, promise and "swear that I will not support any man for any office within "the gift of the people unless he is truly a loyal man; always "giving support to brethren of this order all preference"—I don't think that was in it.

Q. You are sure of that? A. I am not sure of that. I cannot recollect.

Q. Is there a similar oath to that in the League? A. The obligation is just as it is in that book. It was to support men pledged to the principles set forth in the book.

Q. Was that ever changed? A. I don't know; not to my knowledge? I will here state that I only joined the Union League of America in 1868—I think the last part of December. I never was in but two or three meetings ——

Q. When were the Leagues introduced in Alamance? A. In 1868. I suppose it was the first of 1868, or may be 1867.

Q. How soon did you know of them there? A. Well, I cannot say that; I suppose about the spring of 1868—no, 1867.

Q. Who introduced them there? A. I cannot tell you that.

Q. You did not? A. I did not, sir.

Q. Did you co-operate with the Leagues there? A. Well, not extensively.

Q. Were you not elected as the Leaguers candidate to the convention in 1868? A. I was not a member of the League when I was elected.

Q. I thought you said you joined in the war? A. I joined the Heroes of America, and took that obligation during the war, in 1863.

Q. When did you take the obligation of the League? A.

In December, I think, 1867—the last part of December, 1867.

Q. Wern't you the League candidate for the convention in 1868? A. I was not a member at that time; there was no candidate in 1868?

Q. Yes? A. After the constitution was framed, and when it was before the people?

Q. Yes, sir? A. Well, I don't know that the League had any candidate at that time.

Q. Did they ever have any candidates? A. I don't know whether they had or not.

Q. They didn't put up any candidates? A. I can't tell. I was nominated in 1867, before I was a member of the League, and was elected to the constitutional convention which met here in 1868.

Q. You state that in these League meetings they didn't resolve to commit any offence? A. No, sir.

Q. To burn barns, or anything? A. I never heard of anything of the kind.

Q. Do you know that the Leagues up there did burn barns? A. I do not, sir.

Q. Don't you know it was charged, by common reputation, that they did? A. No, I don't know it by common reputation. I know they have been charged with it.

Q. Isn't that common reputation in your county? A. I cannot say that it is.

Q. You wont say that? A. No, sir.

Q. Will you say that it is not?

Mr. SMITH. We have not been allowed to prove these outrages by common reputation.

Mr. MERRIMON. Oh, yes.

Mr. SMITH. No, sir.

The CHIEF JUSTICE. It was ruled out.

Q. Did your Leagues ever censure anybody for barn burning? A. Not that I know of.

Q. Were you in the convention of this State in 1861? A. No, sir.

Q. Were you in the convention of 1868? A. I was, sir.

Q. Did you serve in the confederate army? A. I did not, sir.

Q. Never was in the confederate army? A. No, sir.

Q. What time did you leave the confederacy? A. I left it in March, 1869.

Q. Where did you go to? A. I went to Plymouth North Carolina first, and went from there to Indianapolis, Indiana.

Q. How did you keep out of the confederate service? A. I was drafted in 1862, and hired a substitute.

Q. Kept out by means of your substitute? A. I did, sir.

Q. Were you in the service of the governor in your county as a spy? A. I was not.

Q. Did you receive any money from the governor for secret service? A. I did not, sir.

Q. Never received any at all? A. Not a copper.

Q. Did you have any military commission? A. I had, sir.

Q. What was your office? A. Well, I was appointed in 1868 Colonel of the 48th regiment North Carolina militia, but I did not accept that appointment, and in 1870—March or April—I forget exactly the time, I was appointed captain to raise a detailed company of militia for Alamance county.

Q. When was that? A. In March, April or May, 1870, sometime after Wyatt Outlaw was hanged. I don't recollect exactly the time. I have got the commission.

Q. Did you receive any pay? A. I did not,—not a copper.

Q. What connection did you have with Kirk's movement up there? A. Well, I was ordered by the governor to make myself subject to the officers commanding the First Regiment.

Q. In what capacity? A. Well, sir, I cannot say in what capacity, I do not know ——

Q. Did you point out any persons to be arrested? A. I was just to make myself subject to their orders.

Q. Did you point out any persons to be arrested? A. No, sir, I did not.

Q. Never suggested anybody to be arrested? A. No, sir.

Q. What did you do? A. I went to the camp frequently and returned, and did what I was ordered to do.

Q. Did you go between the camp and Raleigh? A. I did I suppose once or twice.

Q. How many more times than once or twice? I don't know, sir. I cannot recollect exactly how many times.

Q. Well, tell us, Mr. Ray, what was your business? You were to do something? A. I was first enrolling officer—enlisting officer, rather,—to get a company for Colonel Clark's regiment.

Q. I am not talking about that, but about what you did when you were assigned by the governor. What was the object of your appointment? A I was just subject to orders.

Q. What sort of orders? A. Any orders ——

Q. Did the governor tell you what you were to do? A. No, sir, never did.

Q. Never charged you with anything to be done? A. No, sir.

Q. Did Kirk charge you with anything? A. No, sir.

Q. Burgen? A Yes, sir.

Q, What did he charge you with? A. Col. Burgen ordered me to go with his men.

Q. Where to? A. He didn't tell me where, sir.

Q. Where did you go with him? A. Went down in the south part of the county.

Q. What for? A. To arrest persons, I suppose.

Q. Did you arrest any? A. They did.

Q. Were you along? A. I was along.

Q. What men were arrested when you were along? A. I cannot recollect exactly who now.

Q. You can tell some of them? A. Yes, sir,—Daniel Moore and William Moore, Thomas Guthrie, James N. Holt, Thomas Roberson——

Q. Go on with the balance? A. I will whenever I think of *them*—Elijah Foushee, and I believe that is about all.

Q. Who suggested these names? A. I cannot tell.

Q. You didn't? A. No, sir.

Q. Did you show them the way? A. I went along with them—yes, sir, I showed them the way.

Q. Did you go along to show them the way? A. I suppose that was what I was sent for.

Q. To show them the way to those places? A. Yes, sir.

Q. What else did you do? A. I didn't do anything.

Q. What did you do about the camp? A. Not anything.

Q. Were you one of the military court that was appointed there to meet at Caswell? A. I cannot tell you. There was no court, I suppose.

Q. I ask you if you received any appointment? A. I had the appointment of captain.

Q. To sit on that court? A. It was not for that purpose. My understanding was that it was to raise a detailed company——

Q. But were you appointed to compose the court—as one of the court? A. Well, I suppose I was—appointed colonel.

Q. You were to be one of the court? A. I suppose so, sir.

Q. Was Red-eyed Albright to be one? A. I suppose so.

By Mr. SMITH:

Q. How did you get your information? A. Well, that was the understanding I had.

Q. Understanding from whom? A. Well, I cannot tell you.

By Mr. MERRIMON, [resuming.]

Q. Did you get it from the governor? A. I don't recollect now exactly where I got it.

Q. Didn't the governor tell you that you and Red-eye were to be two of them? A. Well, I can't say positively whether he did or not, or who did say so.

Q. For this service you rendered in going around there with Kirk's men, and any service that you did, did you get no pay at all? A. I got pay for services as enlisting officer for a company.

Q. How much pay did you get? A. I got three dollars a day—not quite three dollars a day.

Q. How many days? A. For one month.

Q. You got about a hundred dollars? A. Yes, sir.

Q. Did that cover the whole service you rendered? A. That did, sir.

Q. What pay did you get for going with Kirks' men? A. Not anything.

Q. You went "free gratis"? A. I did not get anything, sir.

Q. Were you to be paid? A. I don't know, sir; I never had any promise of pay.

Q. Were you getting three dollars a day at the time you were with Kirk's men? A. No, sir.

Q. That was before? A. Yes, sir. Well, I didn't go out until the time Kirk's men were disbanded, or about that time, but it was for service rendered before they were there.

Q. Who paid the money? A. I don't recollect; I believe Mr. Neathery.

Q. Were you a justice of the peace? A. I was at one time.

Q. When? A. In 1868, I believe.

Q. Did you ever refuse to grant any warrant? A. I did not, sir.

Q. Weren't you afraid to grant warrants—afraid you would be killed? A. No, sir, I never was applied to by any person that had been outraged.

Q. Weren't there other magistrates there at Graham? A. Esquire Hardin told me he was.

Q. He was afraid he would be killed? A. Well, he didn't say that exactly; he said that he wasn't going to serve any more warrants ———

Q. Weren't Hardin and Albright both in imminent peril of their lives? A. Well, I believed them to be so.

Q. You do? A. I did.

Q. Did they issue any warrants? A. They had done so at the commencement of these outrages, but had ceased to do it.

Q. Didn't they issue warrants as late as the time Kirk went up there? A. I don't know that, sir, I cannot say.

Q. Did they ever refuse to? A. I don't know anything but what they told me.

Q. Don't you know that they did issue warrants for parties and discharged them? A. I do not know.

Q. Don't you know that Mr. Badham and others appeared there for persons upon whom outrages had been perpetrated, a counsel before Peter Hardin? A. Well, sir, to say that I know it I could not.

Q. Were not you present? A. No, sir.

Q. Do you know any thing of Joe Harvey's case? A. I do not.

Q. Don't know that he was indicted in court? A. No, sir.

Q. Do you know that he went before a magistrate? A. I don't, sir.

Q. Do you know of any case where a magistrate refused to grant a warrant when application was made to him? A. I don't personally—no, sir.

Q. Do you know that the courts were kept open then? A. I do, sir.

Q. Regularly held? A. Yes, sir.

Q. Do you know that the clerk kept his office open? A. Not all the time he did not.

Q. Up to the time Kirk went there? A. No, sir, I think his office was closed up about the time Wyatt Outlaw was hanged. He didn't open his office but very little from that time until Kirk's men came there.

Q. Wasn't the superior court held there? A. Yes, sir.

Q. What time? A. It was in June.

Q. When did Kirk go there? A. I suppose it was in July.

Q. Did the court do any business there? A. Well, I suppose they did.

Q. Of what sort? To try men? A. Yes, sir.

Q. What sort of trials? A. Well, sir, I cannot tell you.

Q. Don't you know some men were tried there and sent to the penitentiary at that very time? A. I have forgotten whether it was at that term or not. I think likely it was. I

know there were some sent to the penitentiary from there.

Q. Don't you know a man was tried there for a high crime and sentenced to death and hanged afterwards? A. Yes, sir.

Q. At that very time? A. Yes, sir.

Q. Don't you know that other men were tried and sent to the penitentiary? A. I have forgotten whether it was that term, but I recollect it was done.

Q. Do you say the clerk's office was closed from the day of the proclamation down to the time of the sitting of the court? A. No, sir, I don't say that.

Q. Do you pretend to say that it was closed at all on account of fear? A. I don't know what the cause was,—yes I did too. The clerk told me——

Q. I don't ask what the clerk told you. Did you ever go there for process that you did not get it at the clerk's office? A. No, sir, I saw men there when the office was closed who could not get anything done. The clerk didn't do anything.

Q. Did you know on what account it was closed? A. No, sir, I did not.

Q. Do you know that the probate court was open?

Mr. SMITH. I think, Mr. Chief Justice, that as the gentleman has asked the witness if it was closed and why it was closed, he has a right to state what the clerk said to him about it. It is a declaration accompanied with an act.

Q. You swear it was closed? A. I say it was part of the time.

Q. What do you mean that it was closed at night I reckon? A. No, sir——

Q. Was it closed in business hours and no business done? A. Yes, sir.

Q. You swear that? A. Yes, sir.

Q. For how long? A. I don't know exactly how long. I can't recollect that.

Q. You swear furthermore, that it was closed on account of

the disturbed state of things in Alamance? A. I know nothing more than what the clerk told me.

Q. [By Mr. Boyden.] Tell what that was. A. The clerk said he did not consider that he had any right to open his office while the county was in a state of insurrection.

Q. Ah! that was it? A. Yes, sir.

Q. He said the county was in insurrection and he didn't think he had a right to open the office while the county was in insurrection? A. Yes, sir.

Q. On legal grounds then. Did you see any display of force around there? Did you hear anybody threaten to kill the judge, or the solicitor, or the jury? A. No, sir, but I heard men threaten to kill the one that reported the hanging of Wyatt Outlaw.

Q. Who were they? A. The men who made the threat?

Q. Yes, sir. A. A. G. Moore and William Patterson.

Q. State the time and place? A. I recollect it was the next day after the federal troops came to Graham, in the evening; in the clerk's office.

Q. State what they said? A. Major Patterson came into the office and A. G. Moore remarked to him that "Wyatt Outlaw had been hanged and five d——d sons of b——s had betrayed the whole thing," and Major Patterson made the remark, "Yes, and they will go up next."

Q. When was that? A. I think it was the next evening after the troops came there as well as I recollect. I cannot say positively whether it was Friday or Saturday evening after Wyatt was hanged.

Q. You say that Moore said that "five d——d sons of b——s" had done what? A. Had "betrayed the whole thing."

Q. And Patterson said to him in reply, "They will go up next." A. Yes, sir.

Q. You swear that? A. I do.

Q. Are you sure about it? A. I am, sir.

Q. You are satisfied now with your statement? A. I am sir.

Q. Who was present? A. Well, sir, Moore was present, George Ellington was present, Jim Hunter was present in the room at the time, and there was a [name not understood by the stenographer] that was with Moore, that kept right after him, that was present at the time; and as well as I recollect, William Hardin, Jerry Hardin's son, was in the room at the time. I wont be positive whether he was, but I think he was; and I think that Mr. Pugh's son that lived there in Graham was there at the time.

Q. It was in the court house? A. Yes, sir, it was in the clerk's room.

Q. The superior court clerk's room? A. Yes, sir.

Q. Was the court clerk there? A. No, sir, he was not in at the time. Moore also attacked me at the time, and commenced drawing his coat off, and had it down that far (illustrating.) I just raised up in my seat; I did not answer him any. I raised up from my seat, and looked him in his face—never said anything at all till he got his coat that far, and Major Patterson got him by the arm, and said, "Stop, stop, stop!"

Q. Were you quarreling at the time? A. I never quarreled with any man.

Q. Did you have a fight there at that time? A. No, sir.

Q. What was the dispute about? A. The dispute originated with him against parties. What he seemed to be after was to ascertain who did report the thing.

Q. Who had the troops sent there? A. Well, sir, I applied to the governor for relief or protection some way.

Q. Was that what you were quarreling about at the time? A. No, sir, I did not tell him ——

Q. Wern't these men complaining that you had gone and brought troops there unnecessarily? A. They complained that somebody had, and he rather charged me with it, but I didn't say that I did or did not.

Q. That was the report that they were complaining about? A. Yes, sir.

Q. Did they have a quarrel about it? A. Moore had a

fight there that day with one of the men who signed that paper.

Q. Didn't you participate in it? A. No, sir, I was not present when that took place.

Q. Did the commissioners hold their court? A. I suppose they did.

Q. Transacted their business regularly? A. Yes, sir, as nearly so as they could.

Q. Was the process issued to the sheriff executed? Do you know of any case in which it was not executed? A. I don't know. I cannot say.

Q. Do you know of any case in which it was not executed? A. No, sir, I cannot say that I do.

Q. Do you know of any instance where there was resistance to the officer of the law? A. I do not, sir.

Q. You don't know of any case? A. No, sir.

Q. You said awhile ago that you had seen a man apply to the clerk for process and he did not get it. A. I saw men there to do business—said they had business with the clerk, and the clerk said he had closed his office and did not consider he had any right to do business.

Q. On account of "insurrection?" A. Yes, sir, he didn't consider that he had any right to do business.

Q. Who is the clerk? A. William A. Albright, sir.

Q. Did he sign that application to the governor? A. He did, sir.

Q. Do you know he signed it? A. I do, sir.

Q. Did you see him sign it? A. I think I did.

Q. He was clerk? A. He was clerk of the court.

Q. I ask you if it was not agreed among you all there that you should have this proclamation issued for a war there? A. No, sir nothing of that sort. Peace was all we wanted for protection.

Q. You wanted an army to bring peace? A. We didn't want an army to bring peace. We wanted peace through the civil law, but we became satisfied we couldn't have it.

Q. Why did you become satisfied? A. Because through a jury we could not get men indicted that were committing these outrages, nor could we get one man belonging to this organization to swear in court against another. We were satisfied of that fact.

Q. How were you satisfied? A. It had been tried, sir.

Q. What case? A. I think the Joe Harvey case or some other case was brought there. There were two or three cases brought before the court and there was no bill found.

Q. Why wasn't it found? Was there any evidence produced that warranted it? A. Well, before the magistrate, I understood they would prove an *alibi*.

Q. Didn't the magistrates discharge the party? A. In some cases they did, and some they did not.

Q. Didn't Joe Harvey admit that he didn't know the men? A. I couldn' state as to that case.

Q. Didn't he admit that he had charged the wrong party? A. I couldn't say as to that case.

Q. Do you know of any case where proper evidence was brought before the jury, in which they found a false verdict? A. No, sir, not before a jury. I don't know that a case was brought before the jury at all.

Q. Was not that solicitor there a republican—didn't he belong to your party. A. I suppose so.

Q. Wasn't he acting in the discharge of his duty? A. I cannot say as to that.

Q. You don't know about that? A. No, sir, I don't.

Q. I ask you whether what you have stated here is not a mere matter of guess with you? A. No, sir.

Q. Without having any facts upon which to base it? A. No, sir.

Q. State any facts upon which you base that opinion. A. I learned the fact from Esquire Holt ——

Q. Don't state what Squire Holt told you. State any case within your own knowledge, where a man applied for a war-

rant that he could not get it, or where the officer refused to execute it, or where the magistrate gave a false judgment.

Mr. SMITH. The gentleman asks the witness whether he had any other than his own opinions or suspicions, and then when the witness undertakes to state where he got the information, the counsel cuts him off.

Mr. MERRIMON. I want him to state facts to show the ground for his suspicion. The witness states that he knew of cases either of false verdicts or failure to find bills, and we want him to particularize those instances.

Mr. SMITH. The gentleman asked the witness whether those were not surmises, mere opinions without any foundations in fact——

Mr. MERRIMON. I asked him that——

Mr. SMITH. When he refuses to let the witness state——

Mr. MERRIMON. I don't want the declarations of A, B and C, I ask for the foundation of his statement.

Q. I ask you now if you know any case where a magistrate gave a false judgment? A. I do not, sir.

Q. Do you know of any case where a false verdict was found by a jury? A. I cannot say.

Q. Do you know any case where a constable refused to execute a process placed in his hands? A. I do not.

Q. Do you know of any case where a sheriff refused to execute a process placed in his hands? A. I do not.

Q. Do you know of any case where a magistrate was applied to for a state's warrant and he refused it? A. Well, sir, I do not know any more than what the magistrate told me himself.

Q. I only want to know what you know of your own knowledge? A. I was not an acting magistrate at the time.

Q. Did you ever refuse to grant any warrant? A. No, sir, I was not acting magistrate for nearly two years.

*Re-Direct Examination:*

By Mr. BADGER:

Q. You speak on your cross-examination of an order called

the Heroes of America and upon your direct examination of an order called the Union League—are they one and the same? A. Well, about the same as well as I can recollect the obligations. I could not recollect the obligations of the Heroes of America distinctly.

Q. (By Mr. Graham). How do you know they are the same? A. I say they are about the same as well as I can recollect.

Q. Did Governor Holden when he gave you that commission to serve under Kirk and Burgen tell you what class of men were to be arrested? A. He never told me anything about—no, sir, I don't think he told me anything about arresting anybody. He only told me to make myself subject to those officers. To consider myself as an officer of the militia of North Carolina, subject to the orders of Colonel Kirk and Colonel Burgen.

Q. I wish you would go on now and state all that Governor Holden has ever said to you since he appointed you an officer in regard to Alamance county, and the cause why he put it in insurrection, state all such conversations you had with him in regard to this official position which you held, and why he appointed you? A. I don't exactly recollect what time it was now. It was not very long after I was appointed and commissioned captain, I was down here and he asked me if I had raised a company, I told him I had not, he asked me why. I told him I had consulted four or five magistrates in the county and we had concluded that it would not be protective of peace in the community, that the result probably would be bad and I did not attempt to raise a company at all—that we relied solely on the presence of the federal troops for peace and if we could not have protection in any other way we would have to rely upon them.

Q. What did he say to you in answer to that? A. He answered me that he expected that was about as good as we could do, or something of that kind.

Q. What other conversation did you have with him as to his

object in sending troops to Alamance. A. I don't recollect now what all the conversation was.

Q. Did he ever tell you his reasons for declaring Alamance in a state of insurrection? A. Yes, sir.

Q. What were they? A. He told me his reasons for declaring Alamance in a state of insurrection was the public murder of Wyatt Outlaw right near the court house.

Q. Anything else? A. The number of crimes that had been committed in the county.

Q. Did he say in addition to that that the civil authorities had not performed their duties in punishing these men.

Mr. MERRIMON. That is a leading question.

Q. What else did he say? A. I cannot recollect at present.

Q. Is this A. G. Moore that you spoke of Adolphus G. Moore? A. Yes, sir.

Q. Was he one of the men that Kirk afterwards arrested? A. Yes, sir.

Q. You know that? A. Yes, sir.

Q. You stated on your cross-examination that one of the men who signed that paper with you and Squire Hardin and others, that has been read here in evidence, had a fight about it with Adolphus G. Moore. A. Major Badham, Adolphus G. Moore attacked him about the address and charged him with it the same evening that he tried to have the difficulty with me. He was cripled at that time—had got crippled by jumping from the cars while they were in motion at the Graham station—crippled in the leg. They got into a fight and Moore abused him pretty badly. He was in bed about a month—broke one bone of his leg and never got up so as to get about for about a month.

Q. You say that was in regard to this letter? A. Yes, sir, that was my understanding.

Q. You stated that at the court, about which Judge Merrimon was examining you, there was one man hung and several sent to the penitentiary. I now ask you if they were not all

colored men? A. Yes, sir. I don't think there were but two sent to the penitentiary.

Q. All that you recollect having been sent to the penitentiary and the man that was hung were they not colored men? A. Yes, sir.

Q. Were they not all republicans? A. Well, I could not say as to that, for I don't know.

The hour of two o'clock and thirty minutes having arrived the court adjourned until to-morrow at eleven o'clock, a. m.

## THIRTY-FIRST DAY.

SENATE CHAMBER, March 7, 1871.

The COURT met at eleven o'clock, a. m. pursuant to adjournment, Hon. Richmond M. Pearson, Chief Justice of the Supreme Court, in the chair.

The proceedings were opened by proclamation made in due form by the doorkeeper.

The CLERK proceeded to call the roll of senators when the following gentlemen were found to be present:

Messrs. Albright, Battle, Beasley, Bellamy, Brogden, Brown, Cook, Council, Crowell, Currie, Dargan, Edwards, Eppes, Flemming, Flythe, Graham, of Alamance, Graham, of Orange, Hawkins, Hyman, Jones, King, Latham, Ledbetter, Lehman, Linney, Love, Mauney, McClammy, McCotter, Merrimon, Moore, Morehead, Murphy, Olds, Robbins, of Davidson, Robbins, of Rowan, Skinner, Speed, Troy, Waddell, Warren, Whiteside and Worth—43.

Senator EDWARDS moved that the reading of the journal of the proceedings of yesterday be dispensed with.

The CHIEF JUSTICE put the question on the motion of Senator Edwards, and it was decided in the affirmative.

WILLIAM J. CLARKE, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. SMITH:

Q. In the early part of the examination a confession said to have been made by William Patten before you was read in evidence. It is found printed in the proceedings of this trial at page 692, and it is attested by you as subscribing witness, August 5, 1870. Will you state under what circumstances that confession was made—I mean in relation to its having been voluntary or under coercion. State the attending circumstances under which that writing was drawn up? A. At that

time, sir, as the colonel of the 1st regiment, I had my quarters in a room in the eastern basement of the capitol. This man came to me first, I think in company with one or two others, and expressed a wish o make a confession. I had some conversation with him preliminary to his so doing. He did not come under guard; I was not in uniform, and there was no guard there only, perhaps, my orderly, who was near the door ready to carry any messages that I might have occcasion to send. He was in uniform if he was there, but he had no arms except his side-arms which in the infantry is just the bayonet. I sat down and conversed with Mr. Patten. I commenced by telling him in substanec that a bad state of things existed in Alamance county; that it was the desire of the governor to stop that state of things and to restore law and order; that the governor's wish, as expressed to me, was to apprehend and punish the guilty parties and to give no inconvenience or any trouble whatever to innocent men; and that in order to do it, it was necessary that he should receive information from parties living there. I told him that I considered that next to our God, our firstt duty was to our country ——

Mr. GRAHAM. I don't perceive, Mr. Chief Justice and senators, the necessity of this recital. If there is anything which Patten did or said that is inconsistent with what he stated before this court, it is proper to inquire into that, but as to the general recital I do not think it is necessary.

Mr. SMITH. Not only that, but we have also a right to show the absence of anything like coercion or intimidation.

The WITNESS. That is the reason I make this statement.

Mr. GRAHAM. I don't think it necessary to go into a long description of the declarations which the governor had made and of the governor's wishes.

Mr. SMITH. We don't care about going into lengthened details, but our object is to show the attending circumstances in order to repel the imputation that that confession was not a voluntary one.

The CHIEF JUSTICE. You have the right to the whole conversation if you think it necessary to call it out. But the presiding officer would suggest that a good deal of it might be just as well omitted and that you come to the facts.

By Mr. SMITH, [resuming.]

Q. Be good enough to omit the details as far as you can and confine your statement as far as possible——

A. I impressed it upon him that it was his duty to make this confession and whatever confession should be made I desired it to be the truth and nothing but the truth, and then I dismissed him for the day. The man was startled——

Mr. Manager SPARROW. Mr. Chief Justice, I would like to interrupt the witness to make an inquiry. It seems to me that if the action of the court now, requiring the witness to refrain from going into these details is proper, what has been stated by him ought not to go upon the record. It has to me very much the appearance of a speech in favor of the governor. The defense have called out the governor's declarations which we contend are not competent. It seems to me that that which was stated by the witness in the first part of his examination ought not to go upon the record.

Mr. SMITH. Mr. Chief Justice, this testimony is really before the court and I don't see upon what principle it should be stricken out. We have not conceded that it was not relevant and proper, but in the desire to accelerate the trial of this case we did acquiesce in the suggestion that the witness omit the details as far as possible, and to confine himself to the issue of coercion. It is not improper evidence because it is a part of the subject matter of inquiry whether that statement of Patten was voluntary or involuntary, and what was said and done as far as it throws any light on that transaction we regard as perfectly competent.

The CHIEF JUSTICE. The evidence is competent, and the presiding officer sees no reason why it can be excluded from the journal of proceedings in the trial.

Q. You dismissed him that day? A. I dismissed him that day.

Q. And you say he came back the next day? A. Yes, sir, he came back the next day.

Q. Was that the day when the confession was executed? A. No, sir. He came back the next day and I dismissed him again. I did not wish him to think that I was peculiarly anxious that he should confess.

Mr. GRAHAM. State only what occurred.

The WITNESS. I only want to show how the man stood who was confessing and what I did.

Mr. GRAHAM. But I don't think it is competent.

The WITNESS. Then I reply to the question in general, that if ever a confession, as far as I am aware was free and voluntary, without any fear or compulsion and without any pursuasion or effort to induce evidence, this was so. I regarded the man as a half-witted man.

Q. Just state the circumstances under which the confession was taken? A. Well, I told him to commence and give me word for word——I merely headed by saying that it was free and voluntary which he said it was. I asked him that question and I asked him no other question to my recollection. I let him just tell his tale in his own way and I took it down and read it sentence by sentence after him.

Q. Sentence and sentence as he stated it? A. As he stated and I think while we were at it we went over it three or four times. We were all alone unless (which I am not very confident about and will not state positively,) William A. Albright the clerk of the superior court was present by the request of Patten. If he was present, it was by Patten's particular request. We were alone and the door was shut and no threats or anything of the kind were used. I spoke to him as kindly as a man possibly could.

Q. Did he show about him any marks of fear? A. None whatever, sir.

Q. You wrote down what he told you word for word as near as you could did you? A. I did.

Q. And then you read it section by section as you wrote it down? A. Yes, sir.

Q. Read it over three or four times after it was completed? A. I read it over in this way: We would perhaps commence at the top and read down and then write on another sentence. It was read over to a very tedious length.

Q. What did he say to it? A. About the confession?

Q. Yes. A. He said it was all right. I dismissed him on this third day. I think it was after I had the first interview with him. I put him to board at the Cottage Hotel here and asked him to report to me every day until he was finally discharged.

Q. I suppose that is not a matter of much importance? A, Well, sir, two or three days afterwards he came to me and hung about and said he wanted to say something privately. I dismissed every person and he told me he wanted to tell me about this matter of Burgen.

Q. When was this after the other? A. It was some three or four days—some two or three days. I don't recollect the exact time. It was some time after.

Q. Go on and state it.

Mr. GRAHAM. We object to that, Mr. Chief Justice. He was asked no question in reference to an interview with Colonel Burgen. There was nothing said subsequent to the time the paper was signed about which we asked Patten.

Mr. SMITH. We propose to show the statement of Patten to the witness in relation to the hanging, which is directly in contradiction of his (Patten's) testimony here, and no preliminary question is necessary. You can prove contradictory statements made by the witness when he swears to a given state of facts before the court without putting any question to him at all. It is only on collateral matters about which you are bound to ask the witness in reference to person,

time and place with the view of laying the foundation for a contradiction.

Mr. GRAHAM. Mr. Chief Justice, I do not understand the rule in that way. The witness is sought to be attacked. That is the sole purpose of this question. If it is for any other purpose I would like to hear it avowed. It is sought to attack Patten by showing that he made statements to Judge Clark different from those which he made here on his examination. and the old rule in McQueen's case to which we have so often referred is directly applicable and that is, if you seek to show that the witness has previously made statements inconsistent with his testimony when under examination you must ask him whether he did not to a particular person, identifying the time and place, make statements of a certain character; and then if he denies that he did you can contradict, and not till then.

Mr. SMITH. I have sent for the volume containing the case of the *State* vs. *Patterson*, followed by the case of the *State vs. McQueen*, which expressly and positively laid down the decision which I presume the chief justice will recollect, as well as the members of the bar present, that whenever a witness swears to a given state of facts upon a trial material to the enquiry ,you are not bound to ask him questions about it at all. You can prove contradictory statements to destroy the weight of his evidence and the only case in which you are required to interrogate him particularly is where there is a collateral matter as to the bias or the feeling or something of that nature. By the rule you are never bound to put the preliminary question to him where he is supposed to relate a state of facts which differ from the story told by him to the contradicting witness.

Mr. GRAHAM. This evidence is offered to effect the credit of Patten. The counsel for the respondent on their cross-examination of Patten have proved one interview between Patten and the witness. They have not proved that he had any other interview, and as to going into a subsequent one it is raising a new issue. We had the same point the other day

in reference to divers other witnesses and it has been ruled I think uniformly by the presiding officer and acquiesced in by the senate that to contradict, you must first give the witness an opportunity of explaining his language if he can.

The CHIEF JUSTICE. The counsel, Mr. Smith, suggests a distinction in the application of the rule and the presiding officer is willing to wait until the authorities come into court for which he has sent.

Mr. BOYDEN. Mr. Chief Justice, that the court may understand the point, I will state what the witness Patten swore distinctly here, and then what we expect to prove. He stated that he was hung up by the neck until he became senseless, and was again hung a second time in the same way, and was afterwards tied to a goods box. We expect to show by this witness that when Patten came to him, he said that the rope was put around his neck—that he was not drawn up at all, nor scared at all.

Mr. MERRIMON. I think the counsel [Mr. Boyden] is mistaken. Patten did not swear that at all. He swore exactly what the gentleman says he will prove by Judge Clark, that they did not put him up—that they put the rope around his neck and drew it up a little—they did not draw him off the ground, and that he fainted on the way back.

The CHIEF JUSTICE. Have you not got the recorded evidence?

Mr. MERRIMON. Yes, sir.

The CHIEF JUSTICE. My recollection is, that Patten said that they drew him up the first and the second time and he fainted, and when he came to himself he found himself by a tree.

Mr. Manager SPARROW. He said he fainted on his way back.

The CHIEF JUSTICE. Read the evidence.

Mr. McCORKLE. I read from page 673 of the journal in this case, and I confine myself to that part which is pertinent to the question before the court:

"He took me out to the woods, about 150 yards from the "tent, and threw it over a limb, and drew it up and stretched "my head up. Before he did this he told me if I had any con-"fession to make to come out with it. I told him I had none. "He kept me for sometime and then he let the rope down. I "told him I had nothing to say and he started back to the tent. "I fainted on the way going back. He was around cursing "me and he tried to get me to come out with things I did not "know anything about, and ordered me to be taken back of "his tent, and swore that he intended to have everything out of "me that night. He talked to me for sometime, and I told "him I didn't know anything to tell him, and I did not know "at that time why Outlaw was hung, or about the Kuklux, or "anything about it, and he took the rope off my neck, and tied "it around one of my wrists, and took me outside to a large "goods box and kept me there till the morning. Next morn-"ing he came and cursed the guard for not undoing me before "daylight come."

Mr. SMITH. I don't find the volume of Iredell to which I referred but I have 1 Jones in which is reported the case of the State vs. McQueen. I will read so much of it as relates to the matter now in controversy:

"This argument is based upon a misapprehension of the "extent of the rule in relation to that question. A witness is "never, and ought never, to be asked as to any previous statements he has made directly and immediately material to the "issue, when contradictory to what he swore on the trial. Such "statements are allowed to be proved at once for the purpose "of discrediting him. It is only when testimony is introduced "to prove his declarations or acts, tending to show his bias "feeling or partiality towards the party introducing him, that "the question must first be put to him in relation to such de-"clarations or acts, before the impeaching testimony is allowed "to be given." "We hold it to be unfair," says Judge Gaston, "in delivering his opinion of the court, in the *State vs. Patterson*, "" [2, Ired. 354;]" to attack the credit of a witness, by show-

"ing that his answer, extracted by cross-examination, on an "enquiry of this character, does not correspond with some "statement previously made, without first drawing his atten- "tion to such supposed statement, so as to revive his recollec- "tion thereof, and afford him an opportunity, if he remembers "or admits it, of giving it fully, with such explanations as "the circumstances may justify. With respect to the subject "matter of the witness's evidence, he may be presumed to "come prepared to testify with a freshened memory and care- "fully directed attention, but this presumption does not exist "as to collateral matters, remotely connected with that sub- "ject matter, and justice to the witness, and, still more, rever- "ence for truth, requires that, before he be subjected to the "suspicion of perjury, he shall have a chance of awakening "such impressions in respect thereof as may be then dormant "in his "memory." The distinction and the reason for it "between the cases where it is, and where it is not, necessary "to put the preliminary question before introducing the im- "peaching testimony, is here so clearly stated, that it is unnec- "essary for us to add anything more, except to say, that it is "fully sustained by the opinion of all the judges of England, "in the QUEEN'S case, 2 Brad. and Bing. 314 (6 Eng. C. L. "Rep., 130,) and by the subsequent case in this court, of "EDWARD *vs.* SULLIVAN, 8 Ired 302."

Mr. GRAHAM. I don't think that varies the matter, Mr. Chief Justice, this whole question relates to the credibility of Patten. The sole purpose of this evidence is to attack his credit. They have read this paper as an admission of the witness Patten, and they now offer evidence to contradict that which he gave before the court. If they had any evidence of a similar character to that contained in the paper they should have asked him the question in regard to it in order that they might contradict him. Why put the statement at all except to contradict Patten? It was brought here for the purpose of invalidating his evidence and if it is necessary to produce this statement to invalidate that evidence

as to the first interview with Col. Clarke, it was necessary to interrogate him as to the second interview, before introducing evidence in regard to it.

The CHIEF JUSTICE. The presiding officer decides that the evidence is competent. A direct issue is made as to the manner in which this man was treated by Burgen who was supposed to have been acting as the officer of Governor Holden, and according to all cases you can in such cases contradict a witness in regard to it without first calling his attention to the fact that he made a different statement. That was the impression of the presiding officer, but when the counsel [Mr. Graham] suggested that the rule was different, but he was willing to hear argument upon that point. The presiding officer is familiar with that case of Patterson, he having tried that when he was on the circuit twenty years ago. The case turns upon that distinction between a matter directly in issue and a matter which comes in collaterally- This is directly in issue because you alleged that Patten was maltreated through the agency of the respondent. You can go on with the examination.

By Mr. SMITH, [resuming.]

Q. Will you state now what he said to you in relation to his being hung by Burgen? A. Well, I saw he had something to tell me and I gave him an opportunity of doing so.

Q. [By the Chief Justice.] Was that after he made his last statement or before? A. It was two or three days afterwards I think. He told me that he wanted to say something to me that he had not said to anybody else. I told him that I would hear him. He then stated to me ——

Mr. Manager SPARROW:

Q. Where was this? A. In the same office that I occupied as headquarters in the eastern portion of the capitol by the basement story.

Q. You occupied it as headquarters? A. Yes, sir.

Q. Headquarters of what? A. Of the regiment of which I was in command. I issued my orders ——

Q. Your military headquarters? A. My military headquarters, yes, sir. The room that the secretary of state occupies as the private office. I told him that I would hear him. "Now," said he, "I will tell you all about being hanged up by Burgen," and said he, "It was in this way. He took me out and put a rope around my neck," and whether he said he threw it over a limb or not I do not remember, but said he, "I was not frightened. I knew he was not going to hang me then." Then said he, "He took me back and put me in a tent and tied my arm"—I don't remember which arm he said—"with a cord—about two yards of cord" he said, "and tied it," as I understood him, to a mess chest or to the handle of an arms chest—a musket box—"and kept me there all night."

By Mr. SMITH [resuming.]

Q. That was his version of it? A. That is what he told me, sir.

Q. Was anything said in relation to whether he hung him up or hurt him? A. He did not tell me that, sir. He said that was all that was done to him. That was the way I understood him.

Q. Was his statement made voluntarily? A. Yes, sir, entirely, I did not know what he wanted to say to me. I saw he had something on his mind.

Q. It was not prompted by any suggestion of yours? A. Not at all, sir.

Q. Did you communicate that to Governor Holden shortly after that? A. I think I did, I am quite confident I did, though not positive of the fact.

Q. How soon afterwards? A. Well, perhaps, the same day. If I am permitted I will state why I communicated it to Governor Holden.

Mr. GRAHAM. You need not do that, sir.

Q. They don't want that, but you think you communicated to him what Patten said about it very shortly after it occurred? A. I am very confident of that the same night—the night of the same day perhaps.

Q. What was his reply to you when you communicated it to him? A. Governor Holden?

Mr. SMITH. Don't answer if there is any objection to it.

Mr. GRAHAM. I don't see what that has to do with it.

Mr. SMITH. I only want to show where he got his information.

The WITNESS. It will be unnecessary to argue that question because I do not remember his reply.

Mr. SMITH. It is exactly the same evidence that has been proved as passing between the adjutant general and the governor.

Mr. GRAHAM. This witness says he does not remember and therefore we need no argument about it.

Q. Were you present when any communication of these same facts was made to Governor Holden by any body else about that time? A. I think I was there.

Q. Who communicated it to him? A. Well, sir, there was so much talk—for all of these gentlemen that came down from Alamance were talking to the governor when I happened to be present with him—that I really cannot tell. I think this gentleman, Mr. Albright——

Q. I am speaking now about the treatment of Burgen—were you present when anybody communicated that to Governor Holden besides yourself? A. I don't remember that, sir.

Q. Were you present at any time when anything was said to the governor by his son about it? A. Yes, sir, I was walking down Fayetteville street one afternoon ——

Mr. GRAHAM. I don't know that a conversation of that kind is admissible.

Q. Was it about that time? A. It was at the time it was said to have occurred.

Q. What time was it that this conversation occurred between the governor and his son and yourself? A. When the news first came here about this occurrence—the first time I ever

heard it, and the first time, I think, that Governor Holden heard it.

The CHIEF JUSTICE. The presiding officer thinks that is competent to bring the matter home to the governor's knowledge.

Q. Just state? A. We were walking down Fayetteville street and we met Mr. Joseph Holden coming up the street. When he came up he asked the governor, "Have you heard the news from Alamance." The governor told him he had heard none. "Well," said he, "it is reported here that Burgen has hanged a man until he was almost dead." The governor told him he had not heard it. "Well," said Mr. Joseph Holden "I will be d—d if this torture of prisoners must not be stopped." "Certainly," said the governor with considerable surprise, "cer-"tainly, I hope you don't think I would countenance such a "state of things, certainly not it is an unheard of thing," and the governor as he went on expressed his disapproval of it.

Q. That was immediately upon the report reaching Raleigh? A. The first day I heard it, and I am comfident the first day the governor heard it.

Q. Was there any publication of it in the papers at that time? A. I think—my recollection is, and it is rather a distinct recollection—without being positive, that it came out in the *Sentinel* the next morning or perhaps that afternoon—the next issue of the paper.

Q. After the time of the conversation? A. Yes, sir.

Q. Will you state whether you were present at a meeting before this time when these military matters were being arranged at which the governor was present, and any of his friends—a military meeting, and if so state what occurred there so far as relates to the matters now in controversy? A. I live in Newbern, and early in June I received a letter dated the 1st June, from the governor informing me ——

Mr. GRAHAM. I do not know that it is competent to go into that.

The CHIEF JUSTICE. Go on up to the time when Bur-

gen or Kirk received instructions, if there were any such—not his communication with you?

Mr. SMITH. Mr. Chief Justice, I must state the nature of the testimony we propose to introduce so that the court may understand it. I do not know how far the witness may be able to bring this evidence out, but the purpose of the inquiry is to ascertain whether, in a consultation among these gentlemen, the governor was not advised that the employment of the military was necessary to protect the people of that county—whether upon information before him, he was advised by the persons—prominent and leading men, to take the course which was afterwards pursued for the suppression of crime.

The CHIEF JUSTICE. You mean calling out the military.

Mr. SMITH. Yes, sir.

The CHIEF JUSTICE. Or do you refer to the maltreatment?

Mr. SMITH. No, sir, calling out the military I mean now.

Mr. GRAHAM. I object to that, Mr. Chief Justice. He had legitimate counsel and perhaps their advice might be competent to be introduced; but to summon a parcel of military men for the purpose of consulting on the subject whether they should be called into employment, or in regard to whether he should apply the military or civil force, is a kind of counsel which I think the law does not recognize, and any consultations he had with them would not be at all competent to the inquiry which we are now making.

The CHIEF JUSTICE. Whom do you expect to prove were present and concerned in that advice?

Mr. SMITH. I do not know who were present, but General Abbott was one. They were not a portion of the counsel for the governor. I do not propose to offer the evidence as justifying what was done, but as bearing on the question of motive. I think that this proceeding against the respondent can only be sustained by proving that which is imputed to him—a corrupt motive, and if, under the advice of friends, and upon information imparted to him this step was taken, it cer-

tainly, to some extent, relieves him from the imputation of having acted with corrupt motives.

Mr. GRAHAM. The consultations of the respondent with politicians or with professional soldiers, has nothing do with the matters before this court. If it was legitimate counsel he had a right to ask advice of them.

The CHIEF JUSTICE. The presiding officer is of opinion that it is competent for the respondent to prove that before taking this step of calling out the military, he consulted with prominent gentlemen of his acquaintance, not military gentlemen whom he was to send out—Kirk, Burgen, &c., but prominent citizens, if you please, and neighbors—people supposed to be acquainted with the condition of the country. How far that may weigh with the senate is another matter, but it is competent to show upon what information he acted.

By Mr. SMITH, [resuming.]

Q. Will you state what information was before the governor, and what was said and done at that meeting of which you speak? A. That was not discussed, sir. It was a meeting entirely of military men to advise the governor as to the best mode of raising this force, and disciplining them in order to perform——

Q. [By the Chief Justice.] Just in regard to organizing? A. Yes, sir.

Q. Before the officers had been selected? A. Yes, sir.

Mr. SMITH. Your honor thinks that is competent?

The CHIEF JUSTICE. Yes, anything to show why the respondent adopted the resolution to call out the military is proper to be introduced.

Q. You were one of the commanders of the two regiments? A. I was the ranking colonel of the whole. I was colonel of the 1st regiment.

Q. Do you know how the troops came to be called out? A. Yes, sir.

Mr. GRAHAM. We object to that.

The CHIEF JUSTICE. What is the bearing?

Mr. SMITH. I don't know what the witness will state, but the object of it is to show that it was deemed impracticable to execute the law in that county by calling out the local militia, and that it was necessary to have an independent body of troops.

Mr. GRAHAM. This is a proposition, Mr. Chief Justice, to give the advice of the military in evidence who, it has been decided, were not competent counsel. We say that it is not competent to go into that at all, that the law pointed out the mode in which the military were to be applied, and it needed no counsel to determine anything in regard to it.

The CHIEF JUSTICE. The presiding officer does not think it competent, coming from the military whom the respondent expected to call out.

The WITNESS. Nothing was said to me about being in the military at that time.

The CHIEF JUSTICE. Then it might be competent with reference to the fact that some of the friends of the respondent—private citizens—were advised with in regard to it.

The WITNESS. I wish it to be understood that up to the time I came to this meeting, I had no intimation whatever that my services as a military man would be called for—that I was only wanted to advise about troops.

Q. You can state so much as the chief justice holds to be admissible.

The CHIEE JUSTICE. The presiding officer is not informed as to what the gentlemen expect to prove. The distinction he takes to be this: if the governor for instance conversed with Mr. Mordecai or Judge Battle, whatever was said would be competent as tending to show his motives. So, too, if he conversed with Judge Clarke with regard to the propriety of calling out his military force. What the presiding officer has excluded is anything that passed between the respondent and his officers in regard to the organization of the military.

Q. Judge Clarke, you can state anything that passed at the

time of the conversation you referred to in regard to the motives that actuated Governor Holden; what he expressed them to be, and what was said that prompted these remarks, and what your advice to him was? A. Well, sir, the governor had had one or two detachments of the militia called out before and they had behaved somewhat disorderly. In calling these out, as I understood him, he wished to avoid everything of that kind—he wished to know how he could get a force that would conduct themselves properly and obey orders and give no cause for any reproach or censure.

Mr. BRAGG. That is a military matter purely.

The CHIEF JUSTICE. The presiding officer cannot determine until the witness goes down further. Let the gentleman reduce to writing what he expects to prove.

Mr. BRAGG. I understand the witness in the preliminary remarks he has made, started to give reasons why this particular force was called out instead of the regular militia. That is what I understood the chief justice has ruled out.

The CHIEF JUSTICE. You can reduce it to writing, and then we may see whether it is competent.

The COUNSEL for the respondent then reduced the question to writing as suggested by the chief justice.

The CLERK proceeded to read the question in the words following:

Q. State if you were present, and what advice was given by yourself or others to the respondent as to the best and proper means of repressing crime in Alamance, and what were his declarations in reply?

The CHIEF JUSTICE. The presiding officer thinks that question is competent.

By Mr. SMITH, [resuming.]

Q. If you can answer that question do so, and do not go outside of it? A. I can answer it, sir.

Q. Just confine yourself to answering the question? A. I told him that by a military force, disciplined and kept well in hand ——

By Mr. Manager SPARROW:

Q. When and where, if you please? A. In the executive office, on the 7th day of June.

Q. Please state who was present; we want to identify the occasion. A. I cannot state all who were present, but I can state some. There was the adjutant general and General Abbott and Colonel Henderson.

Q. [By Mr. Graham.] William F. Henderson? A. William F. Henderson and General Wylie D. Jones, I think. There may have been one or two other persons present, but I do not remember.

Q. John Poole? A. No, sir, John Poole was not present; as well as I recollect they were all men who had seen service, or of some military experience. I told him that a military force well disciplined and kept well in hand, was the very thing to do it in my opinion.

By Mr. SMITH, [resuming.]

Q. What was said by others there? A. The opinion was generally concurred in; there was no dissent.

Q. By all present? A. By all present.

Q. You were discussing then the subject of the outrages up in those counties, and the means of repressing them? A. Of course that was mentioned, sir, but very little was said about it. This was purely a military meeting to advise upon the best plan and course for the purpose of suppressing disorder.

Mr. BRAGG. If I understand the witness he said that this movement had been resolved upon, and the sole question discussed at that meeting was the nature and character of the force to be employed.

The WITNESS. That is the way I understood it.

Mr. BRAGG. That is what I understand to have been ruled out.

Mr. SMITH. One of the charges is that the respondent did not resort to the regular militia, but that he resorted to the extraordinary course. That is one of the accusations.

Are we now prevented from showing why he resorted to another system.

The CHIEF JUSTICE. Read the question again.

The question was again read by the clerk in the words following:

"State if you were present, and what advice was given by "yourself or others to the respondent as to the best and "proper means of repressing crime in Alamance, and what "were his declarations in reply?"

The WITNESS. I have now told what we said to him, and I will now tell what the governor said to us. He said that he regretted the necessity of such a thing, and had been slow to adopt it, but he agreed with us in opinion—he said that in substance, I don't mean the very words.

Q. Do you know how they came to be called state troops? A. No, sir. I have perfect contempt for the militia as commonly organized, and I was not willing to have it understood that I was a common militia colonel—it was done because I wanted to distinguish it. It was at my request.

Q. This was the volunteer militia then.

Mr. BRAGG. Hold on? he is your witness.

Q. Were the troops raised in that way?

Mr. Manager SPARROW. Ask him how the troops were raised—state how they were raised?

The WITNESS. I insisted that they should be regularly enlisted men just aa we had in the United States army—that every man should be individually sworn.

Q. What I want to get at is whether they were volunteers or not.

Mr. Manager SPARROW. Let him go on and state all about it.

Q. What I want to know is whether the company was raised by volunteering? A. Yes, sir, they were all volunteers—none of them were drafted men.

Q. Were the regiments mustered into the service? A. Yes, sir.

Q. And accepted? A. Yes, sir.

*Cross-Examination.*

By Mr. GRAHAM:

Q. Was the governor advised in that conversation to send to East Tennessee and bring Kirk and a parcel of men? A. I never heard Kirk's name mentioned. At that time I understood I was to have the military control of the whole affair.

Q. There was no advice given to him to send off and get Kirk and a band of East Tennesse men or from the mountains? A. Not that I heard.

Q. And you understood at that time that you were to be at the head of the concern? A. I did, sir.

Q. To control the military force that was raised? A. I did, sir.

Q. Your idea was that the common militia was a contemptible force, and you would have an enlisted force? A. I thought it an ungovernable force and unsuited for the purpose.

Q. You did not look into the questions of law as to whether the governor had the right to call out anything else other than the militia? A. Not at all.

Q. You were a military man and had some experience? A. I was not asked the question and did not volunteer any advice on that subject.

Q. Not as to the legality of the proceedings, but you talked of what would be the most effective force? A. I did, sir.

Q. Not of whether the governor had a right to enlist men—that was not discussed? A. No, sir.

Q. Or as to calling out Kirk or any troops from a distance either from a foreign state or from the frontiers of our state, nothing was mentioned? A. It was not mentioned. If it had been I would not have gone into it.

Q. You had no expectations of the command being under anybody else except yourself? A. I did not, sir, I went into it very reluctantly—refused at first.

Q. When was the first you heard of Kirk afterwards? A.

The first I remember to have heard of Kirk except I heard of him in the war——

Q. I mean in connection with this business; when was he first introduced on the stage in reference to this matter? A. The first I remember to have heard of this man Kirk was after I had been on to Washington city and had procured an outfit for my regiment—this regiment.

Q. This interview you speak of was the 7th of June? A. Yes, sir.

Q. And you heard nothing of Kirk until you had made a visit subsequently to Washington? A. I think it was about the 20th or 21st of June.

Q. That you first heard of Kirk? A. Yes, sir, of his having any connection with this affair.

Q. You had not supposed he was to supersede you in this matter at all? A. He did not sir, I ranked him and would have commanded him if I had been in the same field of service.

Q. The force that was spoken of in this interview was a force to go to Alamance and Caswell? A. Yes, sir—well no, sir, a portion was to be kept here in the city of Raleigh and to be sent wherever occasion required.

Q. Had you been discussing those two counties or other places? A. I don't remember that they were particularly, more than others; they might have been though.

Q. At this interview you say that the adjutant general and Mr. Abbott, and Mr. Henderson, and Mr. Jones were in the company? A. Yes, sir, I think Mr. Jones was there, but I am not positive about him.

Q. The consultation was held with them and it was in reference to the species of force that would be most effective for such a purpose as the governor contemplated? A. Yes, sir.

Q. Did those troops savor at all of the character of militia.

Mr. SMITH. We object to that.

Q. Then I will vary the question. How were they raised? A. They were enlisted, sir.

Q. Enlisted men? A. Yes, sir.

Q. What was the heading of the articles they signed? A. Every man signed a paper—an oath, &c., to obey orders and ——

Q. I know; but the caption of the paper usually states what is the obligation and the nature of the service, doesn't it? A. That he enlisted himself, to serve for six months unless sooner discharged.

Q. In what service? A. In the militia service of North Carolina.

Q. Have you got a copy of it anywhere? A. I am speaking from memory; the papers are down in the Adjutant General's office.

Q. That each man was required to sign a paper stating that he enlisted for six months? A. Unless sooner discharged by competent authority.

Q. Was it stated that he was to serve in the North Carolina state troops or what? A. I think the way it went was this—The First Regiment of North Carolina State Troops in the military service of the state, or something to that effect.

Q. You had been familiar with the service under other governments. Were they recruited just as men are recruited in the United States' service or in the Confederate service formerly? A. This was a copy of the enlistment paper of the United States changing it to suit the circumstances.

Q. They enlisted in the service of the state of North Carolina in the same way that men were enlisted in the regular army of the United States? A. Yes, sir. I should like to give the instructions given to recruiting officers.

Q. That is of no consequence. Do you desire to show that they did not stand upon the ordinary footing of militia? A. They did in some respects; in others they did not; they were taken indiscriminately. The common militia are an armed mob in my opinion.

Q. That may be a military man's opinion; still the constitu-

tion recognizes them as a very necessary and essential force? They were recruited men? A. Yes, sir.

Q. And not detailed men for service? A. They were all examined by a surgeon for the most part to see whethey they were suitable men, but that was dispensed with as the surgeons were charging us too much money.

Q. Do you know why it was you were not sent in command of those troops and that Kirk was? A. Well, sir, shall I tell what Governor Holden told me?

Q. I don't care about his statements unless they were instructions.

The CHIEF JUSTICE. Do not answer the question unless you recollect what was said.

The WITNESS. Shall I give you my impression about it?

Mr. GRAHAM. I don't care about that.

Q. In relation to the treatment of prisoners, you say that in the street young Holden met his father and yourself and with an oath declared that this torturing of prisoners should stop? A. Yes, sir.

Q. Had there been any torturing reported before that of Patten? A. That was the first I ever heard.

Q. It was then said that Burgen had hung up a man by the neck? A. I think they said Burgen. It was somebody—it was not any of my men.

Q. And the governor said, "Certainly," or something of that sort. A. Yes, sir.

Q. In relation to this man Patten—this conversation at the time the matter was brought to your attention in the street in that way, when was that? A. I cannot fix the exact date, my impression is that it was somewhere——

Q. Before Patten was brought down here? A. It was about the 20th of July, I think—along between the 20th and the last of July.

Q. It was some time before the election? A. Yes, sir.

Q. And some time in July. A. Yes, sir.

Q. Was that the first you had heard of Patten or anybody being hanged up there? A. Yes, sir.

Q. Do you know how Patten happened to be here? A. I do not of my own knowledge. I have a decided opinion about it.

Q. You don't know whether he came voluntarily or as a prisoner? A. I have no knowledge; I have an opinion.

Q. Didn't he appear before you as a prisoner? A. No, sir.

Q. How happened he to seek your acquaintance at all? A. Well, he was here and wanted to make his peace about his connection with this organization.

Q. How peace? Was he in a state of war as a prisoner? A. Oh, no, sir; he was a man that had belonged to this illegal organization, and he was charged, perhaps with complicity in some crimes they had committed, and he wanted to make peace on condition that he should be troubled no more about it no matter how it turned out.

Q. Was he not then held as a prisoner? A. Yes, I think he was; at least he was on his parole.

Q. You understood he was brought here by an officer—Burgen or somebody else—as a prisoner, didn't you? A. Burgen never mentioned his name. I had very little to do with Burgen.

Q. Well, any of the officers? A. I don't recollect that any of the officers told me such a thing. Colonel Douglas had him here boarding at the National hotel.

Q. Who was Colonel Douglas? A. He was acting adjutant-general—the governor's aid.

Q. He held him there as prisoner? A. I Suppose so, somewhat in that way.

Q. He was under military surveillance? A. Yes, sir.

Q. He was not at liberty to go where he pleased except as these guards permitted him? A. There was no guard over him. He was told he must not leave the city of Raleigh.

Q. And he being in this state, wished to make his peace and

get loose? A. That is the way I understood it, I believe that is the fact.

Q. How did he happen to seek you as a confidant to whom he should confide what he had to say? A. I am unable to tell you that, only there were so many of them down here making their confessions to one and another that they put this duty on me to hear this man in order to send him home.

Q. Who imposed it on you? A. The governor requested me to do so.

Q. The governor requested you to take his statement? A. Yes, sir.

Q. How did he first make his appearance in your office, how were you introduced to him? A. I think he came in with William Albright, the clerk—that is my impression about it.

Q. Which Mr. Albright? A. Wm. A. Albright, clerk—the tall man.

Q. Were there any soldiers along? A. No, sir.

Q. Any guard? A. No guard whatever.

Q. William A. Albright is clerk of the court in Alamance? A. Yes, sir.

Q. He was here? A. Yes, sir, this man spoke of him as a great friend of his.

Q. This man was held as a prisoner and Albright came to your office and you were requested by the governor to take his statement? A. Yes, sir.

Q. You said he seemed to be very much startled when he was brought before your office? A. Well he seemed to be nervous and I did not wish to take his statement when he was in that condition of mind at all. I wished him to make it perfectly free and voluntary, without being at all startled.

Q. Don't you know that it was told to him there by Albright or somebody else that if he would make such a statement he could go home? A. No, sir, I didn't hear that. I heard him told that if he would state what he knew about this matter he should be released.

Q. Who told him that? A. I cannot say—I think Mr. Albright.

Q. Did the governor tell him that? A. No, I never heard the governor say a word to him in my presence.

Q. Who was it then that made that declaration to him? A. I think I told him that if he would state what he knew about the matter I thought he could go home; that was my understanding of it.

Q. And the man seemed to be unnerved? A. He seemed to be startled that day and I would not have anything to say to him further than to exhort him to tell the truth about the matter and what I thought his duty was.

Q. Did you appoint to meet him the next day? A. Yes, sir.

Q. When he appeared the next day did he appear in this same nervous and startled condition? A. No, sir, he was perfectly calm the next day. I wanted to impress him that I did not care a fig whether he confessed or not. I would not hear him then. I told him quietly that I was busy and could not hear him.

Q. What did he come for the next day? A. He came to make this statement. I think he came alone, I wont be positive about it. He did not come under guard at all events.

Q. If he did not come under guard didn't he come with somebody else which was equivalent to a guard—one of these Albright's or somebody else? A. No, sir, they were not regarded as his guards at all so far as I know.

Q. Mr. Douglas had the general control of him? A. He became responsible to Mr. Rutjes for his board.

Q. And it was the third or fourth day that you took his statement? A. Yes, sir, the third day I think—it might have been the fourth.

Q. You had heard at that time about his being hanged and young Holden had spoken of it on the street in your presence? A. I had heard of some man, I don't know whether

this man's name was mentioned or not, and I had read the paper.

Q. Did not the paper state the man's name was Patten? A. Yes, sir.

Q. Was anything put into the paper that you wrote about his having been hanged? A. Never a line, sir.

Q. Why not? A. This confession, I think, was probably in the paper. I understood you to ask if I sent anything to the paper.

Q. No, the paper you wrote purporting to contain the truth, the whole truth and nothing but the truth on the subject, did it say anything about his having been hanged? A. I don't remember the contents of the paper as it was written down. I did not charge my memory with it.

Q. As we understand it, there is nothing said about it there? A. The paper will speak for itself.

Q. I wish to know, that being the case and this hanging being a rather serious affair, how it was that in a statement purporting to develop the whole affair he never said anything about there being some one hanged? A. I did not interrogate him. I did not feel it my privilege to do so. I took what he volunteered to say.

Q. There was no conversation between you and him on the subject of the hanging at the time the paper was written? A. I merely took down what he said. I did not put any words in his mouth or make any suggestions to him, or ask him any questions. I am positive about that, sir.

Q. Who was present beside yourself and him? A. Part of the time it is my impression that by his request William A. Albright was present.

Q. And neither Albright or anybody else many any suggestion about his having been hanged? A. Not to my recollection. I took down everything he said and volunteered to say, and nothing else.

Q. You had heard the story of his having been hanged as you have mentioned when with those persons on the street—

the governor and his son? Had you heard it mentioned in conversation by others before you wrote the statement? A. To tell you the truth, I had forgotten the name of the man that was hanged. I was very busy at the time, I had a great deal else to do and did not care much for this fellow.

Q. You then prepared the statement carelessly and did not care much about what it contained? A. No, sir, I prepared the statement with care to put down anything he said, but I did not suggest anything he should say.

Q. Was any allusion made in the paper at all of the fact of his having been Burgen's prisoner?

Mr. SMITH. We object to that for the paper is here to speak for itself.

A. He said what was in the paper and nothing more or less.

The CHIEF JUSTICE. The paper is here.

Q. The paper contains no allusion to the fact of his having been Burgen's prisoner at all, does it? A. I have not read the paper since I first saw it. I have not kept up with the evidence here in court at all.

Q. Was anything said on that subject, that he had been captured by Burgen and held as a prisoner? A. If it is in the paper it was said and if it is not in the paper it was not said.

Q. Nothing was said in the conversation between you and him as to his having been taken by Burgen, and hanged by Burgen, or sent to Raleigh by Burgen? A. I had no conversation with the man. I just let him state all he had to say. I suggested nothing to him at all.

Q. I wanted to know whether there was any illusion. You told us that you made quite an address to him at the beginning? A. I did so.

Q. In the beginning you made only a statement to him that the whole truth was to be told? A. Yes, sir.

Q. And when he came to make his statement you say you wrote nothing except what he stated? A. Yes, sir.

Q. Did you put it down in the identical language? A. As far as I could. If I used any other language I was particular

to explain it to him—if I condensed anything. I tried to get it as far as possible in his identical words.

Q. Did the man evince a great desire to be discharged and get home? A. Not remarkably. I thought he was rather patient about the matter.

Q. Did you find him an unnerved man, almost incapable of doing anything? A. He was not when I took the statement.

Q. He was when he first came to you? A. Considerably, sir.

Q. Then the second time he was in the same condition? A. He was not the second day.

Q. But you dismissed him on the second day? A. I did, sir. May I state my reasons?

Q. You said you did not take it that day? A. I did not—I didn't want to show to him any eagerness about the matter at all.

Q. On the third day he came and you took the statement? A. I did, sir.

Q. But in that statement you say his attention was not called to these facts, and there is no reference to his being captured or being maltreated by Burgen? A. I did not suggest anything to him whatever. I took what he had to say.

Q. Do you know whether or not Patten, while here, was locked up and kept as a prisoner? A. I don't.

Q. Do you know whether he was under a guard that were constantly watching over him—I don't mean who stayed around his room door, but who stayed where they could have him in sight or under control? A. I told Patten that he could not leave this place until he was regularly discharged by the governor, and if he attempted to escape he would probably be apprehended, but he did not know it—at least I suppose he did not know it. I had one of my officers to have him under his eye, but he did not stay in the same room with him or anything of the sort—he stayed about.

Q. He was under watch or guard then? A. He was, sir.

Q. All the time he was here? A. He was under watch after he was sent to me to make this confession.

Q. How long was this process—from the time he was sent to you to make the confession until he was finally discharged? A. It commenced on Monday, I think, and ended on Saturday. We sent him home.

Q. From Monday until Saturday? A. That is my recollection of it.

Q. Do you know that the correspondent of the New York *Herald* came there and endeavored to get an interview with him and was refused? A. I don't know anything of his being locked up anywhere.

Mr. SMITH. I don't see what that has to do with this case.

Mr. GRAHAM. We want to show that he was under guard—under duress.

The WITNESS. I know nothing of his being locked up and guarded.

Mr. SMITH. We object to anything about what the correspondent of the New York *Herald* did or failed to do.

Q. Those gentlemen who were at the governor's interview that day were all pretty prominent party politicians? A. Yes, sir.

Q. Pretty strong party men? A. Yes, sir.

Q. At the interview which continued over to the next day, was the same description of persons present? A. The first day when they offered me a colonelency of this regiment I declined it. I declined it on account of disability growing out of wounds which would not enable me to go into active service, and the second day I was to give my answer.

Q. I merely desire to know whether the next day the same persons were present or otherwise? A. I did not find any of them present. I found some persons in the governor's office the next day. It was not a formal meeting.

Q. Who did you find in that meeting? A. I don't remember, sir, but I remember John Pool had come and he was in the office at the time or some portion of the time. I was

talking with the governor, but there was no regular meeting that second day. I regarded the first as a formal meeting.

ALBERT JOHNSON, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. State your name, age, residence and occupation? A. My name is Albert Johnson, I have lived in Raleigh for the last twenty-seven years, am about fifty-eght years of age and have been superintendent of the North Corolina railroad from July 1868, passing most of my time at Company Shops.

Q. You reside there chiefly? A. I reside there chiefly.

Q. State what you know in regard to Mrs. Corliss on the night of her husband being whipped. State the time and place? A. I think it was about November or December, I cannot be certain which, in 1869, at one o'clock in the morning when I heard a great alarm. I occupied a room at the Shops in the north corner of the hotel—immediately fronting the north. About one o'clock I heard an alarm and I went to my window and heard a female voice screaming like a maniac and calling my name and asking me to get up. She said that the K. K.'s had taken her husband off.

Mr. GRAHAM. You need not state what she said.

Q. What did you do? A. I put aside the curtain to my own room in the window in a condition to be able to see out, and could hear her voice. I told her to come around to the door. She came around and in a few minutes I put on my clothes, and I heard her halloaing murder and that the Kuklux had got her husband and was going to kill him. She halloaed all over the village in different localities.

Q. What was her condition? A. Her face was bloody all over; she was in a loose gown thrown over her very carelessly and she said they had struck ——

Mr. GRAHAM. Do not speak of her conversation.

The WITNESS. I saw her in that condition.

Q. What condition was she in the next day? A. I did not

see her the next day. I did not see her for some two days. Two or three days afterwards she was calm and collected. I spoke to her about the matter.

Q. She ran from your place all over the shops? A. She ran from the porch up and down the railroad, and the last I heard of her she was up around Stagg's somewhere. I had got up and was on the piazza. I then went to bed again.

Q. Did you know the character of Corliss? A. I know very little about him. He boarded at the hotel two months while I was there. I was there and I spoke to him occasionally as I did with other gentlemen. He was a teacher of a colored school there, but I know nothing of his outside character at all.

*Cross-Examination* waived.

ANDREW SHOFFNER, (colored,) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. Where do you live? A. Guilford county.

Q. Gibsonville? A. Yes, sir.

Q. How far from the Alamance line? A. About a mile.

Q. How old are you? A. If I live to see the middle of this month I shall be sixty-six years old.

Q. State whether you have seen any Kuklux or disguised persons, and if so when? A. I have seen them and felt them too.

Q. [By Mr. Graham] Where was it? A. They came out of Alamance to my house.

Q. How do you know they came out of Alamance—who were they? A. Mr. Euliss and Mr. Thompson.

Q. They were Alamance men? A. Yes, sir.

Q. Did they live in Alamance? A. Yes, sir, they live there.

Mr. GRAHAM. How does the witness know that they were the men he states.

Q. How do you know? A. I knew their voices and I was familiar with their manner.

Q. You are satisfied that these were the men whose names you have mentioned? A. Yes, sir, I am satisfied of it.

Q. Tell when this occurrence took place, how many there were and all about it? A. There were seven but I don't know the day when it was.

Q. [By Mr. Graham.] What Euliss was it? A. Nathaniel.

Q. Tell all about it? A. They both took me out of bed and whipped me.

Q. Where were you when they took you out? A. I was at home.

Q. You were in your house? A. Yes, sir.

Q. What time of the night was it? A. It was about ten or eleven o'clock.

Q. Had you gone to bed? A. Yes, sir, I had gone to bed.

Q. Who was in the house with you? A. Nobody but my wife and my grandson and my wife's sister and boy.

Q. How did they come into your house, state all about it? A. They broke down the door and came in and took me out in the yard and whipped me.

Q. They broke the door down? A. Yes, sir, they broke the door down and took me out and whipped me.

Q. Tell how they took you out? A. They caught me by the heels and dragged me out of bed on my back.

Q. How high was the bed? A. The common heighth.

Q. State how high? A. It was a corded bed and I reckon the rails was about that high, (indicating about two and a half feet.)

Q. Was it two feet high? A. About that I reckon.

Q. They dragged you out of bed? A. Yes, sir. It was a common bed.

Q. Did they catch you by any part of your body? A. They caught me by the heels and dragged me out of bed on my back to the door.

Q. They dragged you by your feet? A. Yes, sir, after they got me to the door, they caught me by the arms and put me on my feet.

Q. What did they do with you then? A. They whipped me.

Q. Where did they whip ycu—did they carry you off in the woods? A. No, sir, just outside ot the door. Just clear of the step, that was all.

Q. What clothes did you have on? A. Just my drawers, and they took them down.

Q. What sort of a whipping did they give you? A. They whipped me—I think they gave me about fifty licks.

Q. Hard or light? A. It was laid on pretty well—not light.

Q. Was the skin cut? A. Yes, sir, they cut the skin in several places.

Q. What did they whip you with? A. It was a hickory. It looked like a shaved stick. I looked at it after they let me loose. After they found that I knew them or thought that I knew them, they went back and turned around their backs towards me to keep me from looking at them. I think that was what they did it for.

Q. Who did you know? A. I knew Mr. Euliss, and I knew them all but one.

Q. Which Mr. Euliss? A. Michael.

Q. Who else? A. George Gregg.

Q. Where does he live? A. Guilford.

Q. Where does Mr. Euliss live? A. He lives in Alamance.

Q. Who else did you know? A. John Coble.

Q. What county does he live in? A. Guilford.

Q. Who else? A. Osborne Thompson.

Q. Where did he live? A. Alamance.

Q. You say there were seven in all? A. Yes, sir.

Q. What did they do after they got through whipping you? A. They come and got my wife out of bed.

Q. How? A. They caught her around the arms and lifted her out.

Q. What clothing did she have on? A. She had on a chemise.

Q. Just the chemise? A. Yes, sir.

Q. How far did they carry her from the house? A. They took her outside the door.

Q. Did you see them whip her? A. Yes, sir.

Q. How many licks did they strike her? A. I reckon they struck her twenty or thirty; but they did not hit her hand.

Q. After they got through whipping her what did they do? A. They went into the house and made a light, and went and got my gun, and took it down the road a piece and struck it against a tree and broke it to pieces.

Q. Did they do anything else about your wife except whip her? A. No, sir.

Q. How did you know these persons—they were disguised were they not? A. Yes, sir.

Q. How did you know them? A. By their voices. They were boys raised right by me, not more than a mile from there.

Q. Raised right near you, and you knew them by their voices? A. Yes, sir.

Q. What sort of men were they? A. Thompson is a man I reckon about five feet. Coble is a little higher.

Mr. Manager SPARROW. I would enquire of counsel what the object is of making that inquiry.

Mr. BADGER. I simply desire to show that he had means of identification.

*Cross-Examination.*

By Mr. GRAHAM:

Q. What did they whip you for? A. Just because I voted the radical ticket.

Q. How do you know? A. They told me so before that that they would show me how to be a man.

Q. Who told you that? A. Mr. Coble, the day of the elec tion.

Q. Where does he live? A. In Guilford.

Q. Coble told you that? A. Yes, sir.

Q. What time? A. A day or two before the election.

Q. You didn't tell when they whipped you? A. It was the 27th of last gone October a year ago.

Q. What election was on hand then? A. I think it was about the convention that was framed.

Q. You think it was last October a year ago? A. I think so if I mistake not.

Q. The 27th of October a year ago? A. Yes, sir.

Q. October 1869? A. Yes, sir.

Q. They whipped you about voting the radical ticket which you had voted just before? A. They tried to scare all the black ones they could.

Q. I want to get about this case. You say it was last October a year ago that they whipped you, and about election time? A. Yes, sir.

Q. What election was it, for the convention? A. I think so if I mistake not.

Q. About the time the convention was framed you think? A. Yes, sir, I think so.

Q. Didn't they charge you with stealing? A. No, sir.

Q. Your wife hadn't voted? A. No, sir.

Q. Did they whip her for voting in the election too? A. They whipped her for being a midwife.

Q. Is there any objection to that profession? A. They had an objection to it on account of Dr. Coble.

Q. She came in competition with Dr. Coble? A. Yes, sir, she had a good many cases that he would have got if she had not been there. She was that much lower than he was, and she got them.

Q. They said that was what they whipped her for that night? A. They didn't say it that night; they said it before that night.

Q. They were going to stop her practice? A. Yes, sir.

Q. And your voting? A. Yes, sir.

Q. Who said that they whipped her on account of her interfering with Dr. Coble's practice? A. A neighbor woman not more than half a mile off told us that; she was a white woman.

Q. What she said has nothing to do with this. Did any of them say in your hearing that that was what they whipped

your wife for? A. They said no more than that they would learn her not to go where she had no business.

Q. Who said that? A. One of these men.

Q. Which one? A. Gregg told her so that night—one of the men that did the whipping.

Q. Did you take out a state's warrant against these men? A. Yes, sir.

Q. Where? A. At Guilford.

Q. What did they do with them? A. They took them to Greensboro'.

Q. What then? A. There was nothing done much with it.

Q. Who did you go before? A. I went before Judge Tourgee.

Q. He had the matter before him and dismissed it? A. It was not dismissed. The ones that have not run away are bound over yet.

Q. You tried it in Guilford? A. Yes, sir.

Q. Didn't they charge you with stealing that night? A. No, sir, nobody on the top of the earth can charge me with that.

Q. Didn't they say it? A. No, sir.

Q. Nobody said it that night? A. Not one word was said about it.

Q. You say that Euliss and Thompson live in Alamance? A. Yes, sir.

Q. Both live in Alamance county? A. Yes, sir, in Alamance.

Q. How do you know that? A. They were both raised right there. I moved as soon as I got free out of Alamance because I didn't like the county, and I moved back into Guilford.

Q. You moved from Alamance at the time of the surrender? A. Yes, sir.

Q. And moved over into Guilford county? A. Yes, sir, I was born and bred in Guilford, and I went back there again.

Q. And you swear that both Euliss and Thompson lived in Alamance? A. Yes, sir.

Q. You say you knew them that night by their voices? A. Yes, sir.

Q. Did they talk much? A. Yes, sir, they talked right smart.

Q. What did they say? A. They talked about it when they took me out.

Q. Were they disguised? A. They said they were going to whip me.

Q. Did they have on disguises? A. Yes, sir.

Q. And you could not have known them except by their voices? A. Yes, sir, I knew them.

Q. You knew them by their voices? A. Yes, sir.

Q. You knew none of the rest by their voices? A. Yes, sir, I knew them all by their voices. They were the boys that were brought up there.

Q. Do you know them any other way but by their voices? A. That is all the way I knew them. After I had them arrested and taken to Greensboro' one of them ran away that night, and he said ——

Q. How do you know he said? A. He told an officer so.

Mr. GRAHAM. Then that is not proper.

*Re-Direct Examination.*

By Mr. BADGER:

Q. Who do you say ran away? A. Mr. Thompson, he ran away the same day after he was arrested.

Q, The next night after they were taken? A. The same evening, like as if they were taken to-day, and he went off this evening.

Q. [By Mr. Graham.] Did you see him go away? A. I heard it, and I know he left. He left his wife here, and since he has been gone ——

Q. He left his wife? A. Yes, sir.

Q. How far do you live from Mike Euliss'? A. About a mile.

Q. Which one of these men was it that ran away? A. Thompson.

Q. Osborne Thompson! A. No, his brother.

Q. Monroe Thompson? A. Yes, sir.

Q. How far do you live from him? A. About a mile.

Q. He has been gone ever since? A. Yes, sir, he sent for his wife, and his wife went to Indiana, and she came back again, and wanted to sell their land, but she was under age, and could not sell it, and she has gone back.

Q. When do you say this whipping took place? A. It took place on the 27th of last gone October, a year ago.

Q. One or two years ago? A. Only one year ago.

Q. Last October a year ago? A. Yes, sir.

Q. How long after that before you had them bound over to court? A. I had them bound over about a week after. As soon as I gathered up right smart I found out, and had them bound over.

JOHN SKENES, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BOYDEN:

Q. Where do you reside? A. Alamance.

Q. How long have you resided there? A. I have been there six years next October.

Q. Go on in your own way without being questioned, and tell all you know about the Kuklux or White Brotherhood, or any of these other men engaged in secret organizations, and if you visited their camps, and what you heard them say and do? A. I belonged to the order,

Q. Which order? A. The White Brotherhood.

Q. Tell all the circumstances that took place, and what they told you? A. About christmas 1869, I think it was, there was a gentleman asked me a question if I had heard of the Kuklux, and I told him I hadn't.

Q. Give his name? A. Mr. Stockard.

Q. What Stockard? A. John Stockard. I told him that I hadn't. He told me that he had heard of them. We were talking in Graham at the court house. He didn't have any-

thing more to say about it that day, and I left. A short time after that I was working in the house of Mr. Stockard helping him build a chimney, and asked me the question again, if I had——

Mr. GRAHAM. I do not see any necessity, Mr. Chief Justice, for the witness to go through this long story.

Mr. BOYDEN. We regard it as very important.

Q. Go on? A. He asked me the question again, if I hadn't seen or heard of them, and I told him I hadn't. He told me there was such an organization as that, and he thought I ought to know something about it. I cannot say what time of the week it was, but I went home and he went with me, and he and I went to Graham that night. We got to Graham and he came to me in a short time and asked me if I was ready to go home, and I told him I was. We passed on straight up to Mr. Long's door.

Q. What Long? A. Jacob Long. He told me that he wanted to step in at Jacob Long's a minute and then we would be ready to go, and he told me to walk in and I went in with him, and a short time after we got in there Mr. Long asked me——

Q. Tell what was done at the door? A. I will after a bit. He asked me if I had heard or seen them. I told him I hadn't. He said that I ought to know something about it. I said, "I don't know, sir, whether I had or not." Mr. Long turned around to this man Stockard and told him I ought to know something about it before I went out, and he asked Mr. Stockard to lock the door. After they locked tha door Mr. Long told me to take off my hat and hold up my hand and take the oath to find out something about it. Mr. Long read the oath to me, and he told me then he would tell me some that belonged in it, and if I mistake not he told me that William Moore, Jacob Michael, John Stockard, Lemuel Curtis, Henry Albright, John G. Albright, I think were the men he told me belonged. Well, a short time after that his brother knocked

at the door, and I stepped off, and there was nothing more said.

Q. Whose brother? A. Mr. Long's brother.

Q. What was his name? A. William Long. He came in and I and Mr. Stockard went home. We went home and staid all night. A short time after that, a month or two, probably longer, I cannot tell the exact time, there was to be a meeting in the woods near Curtis's and they asked me to go to the meeting. I told them that I did not care to go, but I went and found Captain Stockard in the meeting, and Mr. Long.

Q. Which Long? A. Jacob A. Long. I found also Lemuel Curtis, Jacob Michael, Henry Albright, and John Albright, if I mistake not. I will not be positive but it appears to my mind that he was there. There was no move at the meeting for any misdemeanor to be done. There was some few questions and rules that were read out.

Q. What were the rules? The rules were that all we men who belonged to it, if there was any crime to be committed, we were to aid and assist in so doing, that we were to help, and if we flinched—if one of the members flinched from it—the club would put the penalty upon him.

Q. What penalty did he mention? A. There was no penalty mentioned. A short time after that I told them I believed I would go home and I and Jacob Michael started for home. I told them that I did not think it was right and I did not not think I could follow. They urged and insisted upon that I should.

Q. [By Mr. Graham.] Who did? A. Mr. Long and the rest who were there. I told them that I was going home. They told me not to be in a hurry that it would break up after a while. I told them that I was going home myself and was not going to stay there and when I got away from there I was going to withdraw from them, which I did, and I staid at home. Inever was at any raid in my life and did not know when there, was any raid to be made. In six or eight months after that probably not so long, or probably a little longer, I could not

tell you exactly, my brother-in-law came to my house and said to me——

Q. Who is your brother-in-law? A. J. W. Long. He asked me to take a walk with him. I asked him where he was going and he said the was going to Haw river to see Monroe Cook. We got near Haw river at the place called Gant's old store and John and I stepped out in the woods and he gave me a sign which was answered to him.

Q. What was the sign? A. Two slaps by the hand and that was answered to him. The first man we meet in that meeting was Doctor John A. Moore and Thomas something, who lives at the Shops.

Q. Tate? A. Yes, sir, that is it—Thomas Tate.

Q. Tell all that took place? A. There was at that meeting David Mebane, Jasper Woods, myself, Jacob Long, John Long, Mr. George Bason and a man by the name of Faucett, I don't recollect his other name. After that I never went any where.

Q. Tell all that was said about obeying orders? A. They told the boys—Dr. John A. Moore told them—that it was a good thing for us poor men, not to flinch from it, that we would have some protection from it to protect our families from the darkies; if they should go and get up any misdemeanor they would protect our families. I told them that I did not want any more protection than I had myself, that I thought I was able to protect myself and family. He rather insisted we should all stick to it who belonged to it. Before the conversation stopped, they said it was a meeting of the officers of the order and they were not to do any misdemeanor or anything of that kind that night. The order was that the privates belonging to the concern were not to know anything of what was to be done only through their commander, that their commander would let them know and then they were to aid and assist in doing so.

Q. What was said about obeying the orders of the commander, and what was to be done to them if they did not obey?

A. They said that the penalty would be put upon them which would be put upon the one that was to be fulfilled.

Q. Who said it? A. Jacob Long did the talking.

Q. What did he say about a father and brother, if anything? A. If there was any whipping to be done they must do it, no matter who it was, if it was one's own father or brother and they needed it and the camp passed upon it, then the man must do it.

Q. There was no discretion about it? A. No, sir.

Q. You were to whip your own father or brother if it was decreed? A. Yes, sir.

Q. What was the penalty if you did not? A. The penalty would be put upon the member who flinched which was to be put upon the person who was to be punished.

Q. The same punishment would be put upon the man if he did not carry out the punishment ordered or flinched from it, that was to be given to that person? A. Yes, sir.

Q. Is there anything more that you know of? A. Nothing more that I know of.

Q. State if anything was said to you as to what the objects of the organization were? A. The object was, according to my understanding, to scare the darkies and gain the election. That was my object—my view in the matter.

Q. Was it explained in that way? A. It was so explained.

Q. [By Mr. Graham.] State what was said and by whom? A. Mr. Long said it.

Q. Which Long? A. Jacob Long.

Q. Where was the first meeting? A. The first meeting I was in was between the court house and Clemuel Curtis'.

Q. When was that? A. I don't know the exact time.

Q. Can you tell the year? A. It was in 1869, I think—I will not be positive.

Q. You have mentioned who were there? A. Yes, sir.

Q. Where was the next meeting? A. It was at Gant's old store.

Q. What did Jacob A. Long say at the first meeting?

Mr. GRAHAM. It does not appear that Mr. Long said anything.

The CHIEF JUSTICE. The presiding officer thinks the witness did, but he does not see that it is necessary to repeat it.

Mr. BOYDEN. I emphatically desire the witness to repeat it to be certain that the court has been fully informed of what Long said.

Q. Long was there? A. Yes, sir.

Q. Tell the time as near as you can of the first meeting? A. I can't tell exactly what time it was but I think it was the same year.

Q. [By Mr. Graham.] What year? A. 1869.

Q. I think you said you were initiated in 1869 about christmas? A. Just after christmas.

Q. And this meeting was after that? A. Yes, sir.

Q. [By Mr. Graham.] What year? will you not fix the time when you were initiated? A. Yes, sir.

Q. You say you were initiated in 1869? A. Yes, sir, just after christmas.

Q. [By Mr. Graham.] What year? A. I was mistaken—after christmas in 1868. It was in 1869, the commencement of that year, that I was initiated, along sometime in January I think it was.

Q. And the next meeting after the first, where was it? A. That was near Gant's old store.

Q. Was Jacob A. Long there? A. Yes, sir he was there

Q. What time of the year was that? A. I can't tell you exactly.

Q. Give it as near as you can? A. I think it was in the summer season.

Q. Of the year 1869 do you mean? A. Yes, sir.

Q. You mentioned another meeting six months after? A. No, sir. This meeting at Gant's old store was the last meeting.

Q. I ask you where the second meeting was? A. This is the second meeting that I have been telling you about. The first meeting was on the last of January or the first of February

1869, and then it was six months, or it may be not that long, or probably longer; the next meeting was at Gant's old store.

Q. Was that the time Doctor Moore was present? A. Yes, sir.

Q. Tell the next meeting? A. I never was in any more.

Q. Have you heard any threats against anybody at any time if so, give the men's names?

Mr. GRAHAM. Against whom and how?

Q. Any threats by men belonging to the Kuklux organization and when it was and where it was the threat was made? A. I don't know exactly the time it was, but myself and Henry Albright were talking privately by ourselves, and he told me that they had a talk about hanging his brother Bill, but he did not think they ought to hang him, as he had no wife but little children and he ought to stay and care for his little children, but that his back was broad enough and they ought to give him a few licks any how.

Q. That they ought not to hang him on account of his wife being dead and leaving no one to care for his children? A. Yes, sir.

Q. But that his back was broad enough and that they ought to whip him some? A. Yes, sir.

Q. Can you tell us when that was? A. I cannot.

Q. Did you ever hear anybody else making any threat? A. No, sir, I don't know that I ever did.

Q. I think you mentioned Stockard? A. Yes, Captain Stockard—he and I got into a conversation and he told me that they would have whipped Squire Albright, but that he had stopped it—that he saw the chief of the camp and stopped it.

Q. That they would have killed him if he had not have stopped them? A. Would have whipped him. I don't know that he said killed, but they would have whipped him.

Q. When was that? A. I will not be positive but I think it was in the summer season.

Q. What year? A. 1869—I will not be confident about it.

Q. Can you tell the time you had this conversation with his brother and where it was? A. It was in the spring.

Mr. GRAHAM. Whose brother?

Mr. BOYDEN. The brother of Mr. Albright—Henry.

The WITNESS. That was in the spring season.

*Cross-Examination.*

By Mr. GRAHAM:

Q. You did not want to join this order at all? A. No, sir, I had no anxiety to join it.

Q. You did not consider yourself responsible for anything it did? A. No, sir.

Q. You just joined it because they wanted you to? A. Yes, sir.

Q. You took the oath because Long wanted you to take it? A. I cannot say that it was simply because he wanted me to.

Q. Then what was it. You seemed to be very indifferent about the whole business? A. Stockard told me it would be a good thing.

Q. Stockard you say carried you to Long? A. I didn't know anything about it, at all.

Q. What oath did Long administer to you? A. I cannot tell you that.

Q. Did you swear to an oath without knowing what you were swearing to? A. I cannot tell you the oath that he administered. The other was that we were to stand up fair and square to the White Brotherhood.

Q. And your oath was to frighten darkies, and carry the elections? A. Yes, sir.

Q. You swear to that? A. Yes, sir.

Q. That was a part of the oath that Long administered? A. It was in opposition to the League.

Q. How came you to swear to any such thing as that—did you think it was right? A. No, sir. I did not think it was right.

Q. What did you swear to it for? A. After I got into it there was no way to get out of it.

Q. But you didn't get into it until you swore? A. Of course after the oath was administered I was in it.

Q. But you could have refused to take the oath could you not? A. I could have done it.

Q. And you swear that to frighten darkies and carry the elections was a part of the oath? A. As well as I recollect it was.

Q. According to your best recollection? A. Yes, sir.

Q. That was the whole object of the thing? A. Yes, sir.

Q. You say the Leagues existed then? A. Yes, sir.

Q. And you wanted to counteract? A. I didn't want to counteract them at all.

Q. Why did you join this organization if it was not to counteract it? A. I simply joined it—that is all I can say.

Q. Without any reason? A. Without any reason at all.

Q. It was in Jacob Long's room in Graham that you took the oath? A. Yes, sir.

Q. You are certain you swore that it was to frighten dakies and carry the elections against them? A. I cannot say that I took the oath to frighten darkies at all. The oath was that it was for a party in opposition to the League.

Q. A party in opposition to the League? A. Yes, sir.

Q. What was the League? A. I don't know.

Q. You don't know wh t the League was? A. No, sir.

Q. Don't you know now? A. No, sir.

Q. You don't know that the League was composed principally of colored men? A. No, sir, I do not.

Q. Why were you sworn to act in opposition to a thing you knew nothing about? A. I cannot give you any reason for it at all.

Q. You were disposed to swear to something—is that it? A. No, sir.

Q. Did you not hear all that you heard about this from your brother-in-law John W. Long? A. No, sir.

Q. What has become of him? A. I do not know.

Q. Has he left this country? A. Yes, sir.

Q. You say that the first meeting you went to was this one when he wanted you to take a walk? A. That was the second time.

Q. Where do you live? A. Near Graham.

Q. On whose land? A. 'Squire Albright's.

Q. Which 'Squire Albright? A. William Albright.

Q. Which William Albright? A. "Red-eyed" William.

Q. You live on his land? A. Yes, sir.

Q. You mean to say that his brother said he ought to be whipped? A. He said that he thought a few licks would not hurt him as his back was broad enough to take it.

Q. His brother said that it was not right to hang him, but that his back was broad enough to take a few licks? A. Yes, sir.

Q. Have you and 'Squire Albright talked over this matter much? A. No, sir.

Q. How came you to give that in evidence here—why did you make it known that you knew anything about this thing? A. About what thing?

Q. About this White Brotherhood—the society that you joined? A. I made a confession of it.

Q. You made a confession of it? A. Yes, sir, I did.

Q. When? A. At the time Kirk's men were here.

Q. You did not talk the matter over with 'Squire Albright before you came here now? A. No, sir, I have not talked anything about it.

Q. Who got up the confession which you signed—did you not sign a paper with several others? A. I acknowledged ——

Q. I don't care about that, but who got up the paper that you signed? A. I do not know. I signed it in 'Squire Albright's house.

Q. Who presented it to you? A. When Kirk's men were there they threatened to arrest ——

Q. What I ask you is, who presented you with the paper? A. 'Squire Albright.

Q. Why did you not say at once that 'Squire Albright

brought you the paper? A. No, sir, he didn't bring it. I went to his house. He didn't bring it to me at all.

Q. You went to 'Squire Albright's? A. Yes, sir, for the purpose of signing and acknowledging the paper.

Q. For the purpose of acknowledging the paper? A. Yes, sir.

Q. Did the 'Squire draw it? A. Turner drew it up.

Q. Who was Turner? A. Jeff Turner.

Q. Did anybody sign it before? A. No, sir.

Q. Nobody signed your paper except yourself? A. I don't think they did.

Q. You acknowledge that you were a Kuklux and withdrew? A. Yes, sir.

Q. And withdrew? A. Yes, sir.

Q. You never withdrew from it until Kirk came there? A. Of course. I didn't go up to any of the meetings.

Q. But you said you were at two of them? A. I was at two of them, but I never was at any more. I never went to any more at all, and never knew of any raids.

Q. You didn't make any raids? A. I did not.

Q. They said one object was protect families? A. Yes, sir.

Q. But the great object was to frighten the darkies? A. Yes, sir.

Q. And prevent them from voting at the election? A. Yes, sir.

Q. Both of these things were in that oath? A. No, sir, they were neither of them administered in that oath.

Q. Neither the protection of families nor the frightening of darkies were in that oath? A. No, sir.

Q. How did you learn it? A. After I had taken the oath they told me that that was the grounds it was founded on.

Q. Who told you that? A. Jacob Long.

Q. That was what it was founded on? A. Yes, sir.

Q. Did you live at that time on 'Squire Albright's land? A. Yes, sir.

Q. Have you been living there for the last six years? A.

One year I was away from there. I lived there for two years, and then I moved away for one year.

Q. And then went back again? A. Yes, sir, he has only owned the land for about two years. It was not owned by him when I moved on it.

Q. You say that you swore you would whip anybody, even your father or your brother? A. That was the oath—that was not administered in the oath, but that was what we were sworn to do.

Q. To whip anybody, even a brother or a father? A. Yes, sir.

Q. Would you have done it? A. No, sir, I could not have done that.

Q. Why did you not tell them so at the time? A. I did tell them so.

Q. Did you not swear to the oath? A. Of course I did.

Q. They admitted you into the society? A. Yes, sir, of course.

Q. When you found that that was the case why did you not get out? A. I did get out as far as I could, but I could not get out of it when I was in it.

Q. You found means of getting out when Kirk came there? A. I came and acknowledged then.

Q. Why could you not have acknowledged before and have disapproved the objects? A. I didn't know how to get out of it until several others had acknowledged, and then I went and got out of it myself.

Q. When was the last meeting you attended? A. Near Gant's old store.

Q. When was it? A. I will not be certain about that, but I think it was in June or July, 1869.

Q. That was the last meeting you attended? A. Yes, sir.

*Re-Direct Examination.*

By Mr. Boyden:

Q. They asked you if John W. Long had left the country? A. Yes, sir.

Q. Do you know why he left? A. Yes, sir.

Q. What was the reason? A. He was threatened. He could not go anywhere at all.

Mr. GRAHAM. You will speak from your own knowledge.

Q. Do you know the fact that he was threatened? A. Yes, sir, becouse he was an acknowledged Kuklux.

Q. [By Mr. Manager Sparrow.] Do you know that he was threatened? A. Yes, sir.

Q. Where was he threatened? A. He was threatened in Graham. I cannot tell you when it was, but it was somewhere about christmas.

Q. [By Mr. Manager Sparrow.] How do you know? A. I was there.

Q. Did you see him threatened? A. Yes, sir, I was there at the same time.

Q. What was said? A. They called him "hog John Long" and throwed up to him about stealing a hog, &c., and said to him that all such men ought to be killed and put at him for a fight.

Q. Who was it? A. Robert Noel.

Q. Did he belong to the order? A. I don't know whether he did—if he did I didn't know it.

Q. That was about christmas? A. Yes, sir.

Q. Do you know where he went to? A. No, sir, I do not.

Q. He left from fear? A. He left from fear.

*Re-Cross-Examination.*

By Mr. GRAHAM:

Q. For fear of being prosecuted for stealing hogs? A. No, sir, for fear of being killed.

Q. Is he charged with stealing hogs? A. Noel called him "hog thief John Long."

Q. And put at him for a fight? A. Put at him for a fight for being an acknowledged Kuklux. He didn't put at him for hog stealing, but because he was an acknowledged Kuklux, and he said then that every acknowledged Kuxklux he could kill the last of them.

*Re-Direct Examination.*

By Mr. BOYDEN:

Q. He said he could kill the last one of the acknowledged Kuklux? A. Yes, sir.

Q. Meaning these men who made confessions? A. Yes, sir.

Q. What is your politics? A. I have always been a democrat.

Q. [By Mr. Manager Sparrow.] What is your politics now? A. I am a democrat.

Q. [By Mr. Graham.] Who did you vote for at the last election? A. I voted for William Smith.

Q. Was he a democrat? A. He was not. I liked the man and I voted for him. I am not a regular party man.

Q. Who did you vote for at the election last summer? A. At the main election. Do you mean when Kirks' men were there.

Mr. GRAHAM. Yes, sir.

The WITNESS. I voted then for Smith.

Q. Who else—there were two nominees for the senate? A. I don't recollect.

Q. Don't you recollect who the other man was? A. I do not.

Q. Mr. Gilmer, was one? A. Yes, sir, I believe he was.

Q. Who did you vote for? A. I voted for that ticket.

Q. What ticket—the Smith and Gilmer ticket? A. That is the one I voted.

Q. [By Mr. Graham.] Did you not vote for Smith and Welker? A. No, sir.

Q. [By Mr. Boyden.] Who did you vote for for the house of representatives at the regular election? A. I voted for Stephen White.

Q. Who was Stephen White, what was his politics? A. I do not know, I never had any talk with him.

Q. Was he a democrat? A. I don't know.

Q. Did he run on the democratic ticket? A. I don't know, it is simply because I am not a man of letters.

Q. You did not know the politics of the man you voted for? A. I don't know—if I like a man I vote for him.

Q. You don't inquire about his politics? A. No, sir.

STEPHEN A. WHITE, *a witness called on behalf of the respondent, being sworn, testified as follows:*

By Mr. BADGER:

Q. How long have you lived in Alamance? A. All my life.

Q. Do you know the general character of Corliss, the man who was whipped at the Shops last year? A. Mr. Corliss lived in the community in which I reside for about twelve months and taught a colored school. As far as I know he was a man of excellent character. I never heard anything to the contrary.

Q. State what offices you hold in the county? A. I am railroad agent and postmaster.

Q. What was Mr. Corliss' grade of intelligence? A. He was a very intelligent man—a man of education, a man of extensive reading and very intelligent.

Q. He was teaching a colored school at Company Shops? A. Yes, sir, he was teaching at Mebanesville several months previous to his going to the Shops.

Q. State what offices you have held besides those you have mentioned? A. I have been a magistrate, railroad agent, express agent and postmaster.

Q. Have you ever been in the general assembly? A. I have.

Q. What year? A. This last year. I was elected a member from Alamance.

Q. Were you ever elected before that? A. No, sir, I was not, I never was a candidate before the people.

Q. Are you pretty well acquainted in the county? A. I am generally acquainted with the people in the county.

Q. State if you know what is the state of feeling between the two races in Alamance county? A. It has been, for the last two years, very bitter.

Q. On account of politics? A. I know nothing else.

Q. State if you know the condition of things in Alamance for twelve months preceding the hanging of Outlaw, and up to that time? A. There was a state of terror existing through the county. A great many people did not consider they were safe. There were a great many people in the county, I am satisfied, were in a state of alarm. I mean both colored and white people.

Q. What class of people do you refer to? A. To the republicans, both black and white.

Q. You frequently consulted with colored and white people?

Mr. GRAHAM. We object to the question.

The CHIEF JUSTICE. The presiding officer thinks these private conversations are not admissible.

Q. Go on and state what you know of the condition of things at any time? A. I know that it was not a pleasant state of things by any means.

Q. You stated that there was a great terror. To what extent? A. I can only say in reference to conversation with others, what they said was their condition. They stated to me their fears.

Q. Fears of what?

Mr. GRAHAM. We object to the statement of what the witness may have heard.

Q. What was it a terror of—what were their fears? A. Some were afraid of their lives, and some were afraid of whipping, and some were afraid of various other punishments.

Q. Of what were they afraid? A. They were afraid of the visits from these secret organizations.

Q. Please state if you ever joined any society which forbade white people from employing colored people, if so state when to the extent of it? A. I was connected with the Seymour and Blair club in 1869.

Q. Was it not in 1868? A. Yes, sir, 1868. It was previous to the last presidential election. I think one of the articles of that club was that no member of that club should

employ any person who would vote the republican ticket or any person who belonged to the republican party. I think that was one of the rules of the club.

Q. State whether or not the law could be administrated in the county of Alamance against the Kuklux organization? A. It never was.

Q. You were a magistrate during what year? A. I was elected a year ago last summer and I have been a magistrate for the last year and a half.

Q. What came to your knowledge as a magistrate in regard to that? A. I was never applied to by any person for a warrant for it was generally considered ——

Mr. GRAHAM. You will not speak of general considerations.

The WITNESS. I was never applied to for a warrant during that time.

Q. Why did nobody apply for warrants when crimes and outrages were committed in their presence?

Mr. GRAHAM. I object to the question. It anybody had applied and had been refused he can state the fact.

Mr. Manager SPARROW. The answer of the witness would be simply a matter of inference.

Q. What has been your politics? A. I have been a conservative.

Q. How long have you been a conservative? A. I may say that my politics has been whig—I claim no other party.

Q. When did you cease to act with the conservative party and why? A. I could not act with them because——

Mr. GRAHAM. We object to the reason. This is not the place to have a political discussion.

Q. [By the Chief Justice.] When did you cease to act with the conservative party? A. I have had no connection with it since the last presidential election.

*Cross-Examination.*

By Mr. GRAHAM:

Q. You knew nothing of Corliss except a few months that he lived in Mebanesville? A. Nothing at all.

Q. Your acquaintance with him was formed there? A. Yes, sir.

Q. Do you know of his attempt to make disturbance in a religious congregation by carrying black persons in to the meeting among the whites? A. I heard that frequently spoken of but I was not present at the church at the time the occurrence took place.

Mr. McCORKLE. You need not speak of what you have heard.

Mr. GRAHAM. We are speaking now of the general conduct of this man and the causes that existed for inflicting upon him violence. I had supposed it was competent to show that there was a prejudice of that kind.

The CHIEF JUSTICE. You are asking the witness to state a thing when he states that he does not know anything about.

Mr. MERRIMON. Mr. Chief Justice, evidence of this sort has been received all along to show the motive for the whipping of these men, and we offer this testimony to show the motive which induced parties at Company Shops to whip this man Corliss.

The CHIEF JUSTICE. Will the counsel reduce his question to writing.

Mr. Merrimon reduced his question to writing and it was read by the clerk in the words following:

"Was it the common reputation that Mr. Corliss sought to introduce colored persons among the white congregation at Col. Bingham's church, in Mebanesville?"

Mr. SMITH. Mr. Chief Justice, that is an attempt to prove not the character of a man but a fact, by general reputation.

Mr. MERRIMON. We desire to show that the object was not to abuse this man Corliss on account of his politics, but that there were other reasons for which he might have been whipped.

Mr. SMITH. I don't think it makes any difference what the object was.

Mr. MERRIMON. Then let us have the information.

Mr. SMITH. We would be willing to do so if it were proper evidence.

The CHIEF JUSTICE. The presiding officer thinks the question is incompent in the way it is put. There has been only one instance shown of Corliss introducing a colored man into the church and the counsel now want to prove the same thing by hearsay.

Mr. MERRIMON. We proved this very fact by reputation before.

Q. Was Mr. Corliss a person who insisted upon the social equality of the white and black races? A. No, sir, he didn't. I had frequent conversation with Mr. Corliss. He came to my office almost daily for his mail.

Mr. SMITH. I would like to have the witness state the full conversations that have been called out by the counsel.

The CHIEF JUSTICE. The respondent has a right to have the conversation if it is insisted upon.

Mr. GRAHAM. We asked the witness whether Corliss was a person who insisted upon the equality of the white and black races.

The CHIEF JUSTICE. That necessarily would come out in a conversation. The case is analagous to a witness speaking of a contract; the other side would have a right in such a case to show what the contract was.

Mr. GRAHAM. But suppose it was shown that there was no contract—that certainly would be the last of it.

The CHIEF JUSTICE. This question arose at the last term of the court, and was considered. You propose by the witness to show that Corliss sought to bring about the equality of the races.

Mr. GRAHAM. I asked him if that was the reputation of Corliss and the witness answered that it was not, now it is proposed to give the conversation on the subject.

The CHIEF JUSTICE. The presiding officer thinks that

the respondent is entitled to the conversation if he insists upon it.

Mr. SMITH. The witness was about to state how he got his information.

The WITNESS. Shall I proceed to give the conversation?

The CHIEF JUSTICE. Give it.

Q. [By Mr. Smith.] How do you know that fact? A. Mr. Corliss came to my office after this occurrence had taken place.

Q. [By Mr. Graham.] What occurrence? A. You spoke in regard to the negro in the church. I asked him questions in regard to it. I commented on the subject pretty severely. He went on to make a remark that he never had advocated the taking of colored people into social equality or anything of the sort. I have never heard him admit that he was in favor of the social equality of the two races; and then he stated to me that he never went to their houses and never visited them.

Q. [By Mr. Graham.] Is this the single conversation? A. At this conversation he told that he did not expect when he took that boy to the church to seat him; that he was a crippled boy and went on crutches, having had his leg broken, and he took him to church with the intention of asking that he might take a seat in the back part of the church, and said he, "I am opposed to anything of the sort." He just remarked to me in this conversation that he had no idea of seating him in the church, because he had observed in the south the custom was opposed to seating colored people right in the body of the church among the whites, and he had no intention of bringing that boy inside the church and he was sorry the thing had occurred.

By Mr. GRAHAM (resuming).

Q. Did he not say that this conduct was very offensive to the congregation? A. He said he had no intention of offending the congregation.

Q. Didn't he say that the congregation took great offence at what he did? A. Yes, sir, they took offence at what he did.

Q. Colonel Bingham, who was officiating in the absence of

the minister, told him that if his object was to disturb the congregation he had better retire? A. No, sir, it was this—the church service in the absence of the preacher was held by Major Robert Bingham, and he said there was no room for the boy, and he would give him a seat, and he took a chair and sat the boy at the door. That expulsion from the church which you refer to, took place some two weeks afterwards.

Q. There were two occasions? A. There was but one occasion.

Q. What was the expulsion two weeks afterwards? A. They told Mr. Corliss that he could not come to the church after that. One of the officers of the church told Mr. Corliss that he had undertaken to insult the church and that he could not come there and was to absent himself from the church, that he must not come there. That was a week or two afterwards.

Q. That his conduct was highly offensive to the congregation assembled there? A. Yes, sir.

Q. Then the feeling between the two races is a political feeling? A. Nothing but a political feeling.

Q. The colored people generally and almost unanimously vote the republican ticket? A. They do.

Q. And have done so? A. Yes, sir.

Q. They belong to the League? A. I don't know. I have no knowledge of the League and know none of its secrets.

Q. Have you not seen the Leaguers parading about in places where you were? A. I never did. I never saw any of them for I don't know anything about them.

Q. The usual business relations obtain in the county there, colored people being employed by the whites? A. Yes, sir.

Q. And made contracts and had their business transaction with them? A. Yes, sir, they had business transactions.

Q. The feeling that you spoke of is a feeling confined entirely to the political divisions? A. Yes, sir, to the political divisions.

Q. In regard to the administration of the law, do you know

of any colored persons applying to a magistrate for a warrant, claiming that he had been injured, and a warrant was refused? A. I don't know that I do.

Q. Are you a magistrate yourself? A. I am.

Q. Has any application been made to you by any person for redress and to bind over a party which you ever refused? A. I never have refused.

Q. Do you know of any warrants sued out in behalf of one John Isely, who was severely whipped the day of the election in that county? A. That case was tried before me.

Q. Who was he? A. It was John McAdams and John Isley.

Q. Is John Isely a white man? A. A white man.

Q. Do you know of John Isely complaining of being whipped and applying for a warrant for it? A. He did.

Q. To whom? A. To me.

Q. What was his statement about being whipped—under oath? A. He said on oath that James McAdams came to his house the night of the last election and he was drinking and that he asked him to come in, that they sat down in the house and had got into a dispute and that McAdams made at him and that he got him by the collar and fell on him and choked him.

Q. What was the cause of the hostility, that he had not voted the republican ticket? A. I don't know that he made any charge about it, but it was the voting that ticket they had fallen out about.

Q. Isely was a republican and voted the democratic ticket? A. Yes, sir.

Q. And, this man attacked him on that account? A. Yes, sir, that is what Isely stated.

Q. You bound over the party to answer? A. Yes, sir, to the next court.

Mr. SMITH. Have you introduced any evidence of that kind.

Mr. GRAHAM. You have been introducing evidence all along tending to show that men were abused for voting the re-

publican ticket and we introduce this to show a case *vice versa*.

Q. You were the republican candidate at the election in August? A. Yes, sir.

Q. And you received a majority of the votes, then given? A. I did.

Q. And you were returned to the House of Representatives? A. Yes, sir.

Q. Your seat was vacated? A. Yes, sir.

Q. The parties in the county are divided pretty equally, are they not? A. I suppose there is not a great deal of difference.

Q. You stated that the law could not be administered; do you mean by that that you as a magistrate could not issue a warrant if a man applied to you for it? A. No, sir, I don't mean that. I should certainly issue a warrant if a man applied to me in any case whatever.

Q. Do you know of any sheriff or constable who would not accept or serve a process? A. No, sir, I don't know as I do.

Q. Do you mean that the grand jury would not find bills that the solicitor sent them? A. I mean that, among all the outrages in that county, I have never known any prosecutions. You cannot find evidence against them, and it was useless to prosecute.

Q. Do you know of any effort being made? A. I have known effort after effort and I have known no person convicted for those offences in the county.

Q. What efforts? A. Various efforts. The attempts of the courts have almost signally failed. There have been but two or three cases punished.

Q. Do you mean magistrates have had evidence placed before them against men and have failed to punish? A. No, sir.

Q. Do you mean that the law could not be administered if the evidence was there? A. If the evidence could be got I suppose it could be administered.

Q. There was no state of terror that prevented the execution of the law? A. So far as the serving of warrants, &c., it could have been done.

Q. The difficulty was in finding evidence on which the criminals could be convicted? A. Yes, sir, that was the principal difficulty.

Q. Do you mean that a state of timidity existed among the magistrates of the county, that the law could not be administered? A. I suppose that the magistrates would do their duty. I know that I would have done my duty in a case of that kind.

Q. Were not the majority of the magistrates republican in that county? A. I suppose half of them or nearly so are republicans.

Q. Do you mean it should be understood that there was any such terror as prevented the people from voting their sentiments at the elections? A. Well, I suppose that the people generally voted there, till within the last twelve months, but I am satisfied that—unless it was at the last election—the republicans have been afraid to vote their full vote.

Q. At what election? A. Any election for the last twelve months, except at the August election when the troops were there.

Q. That is the time when you got the majority? A. Yes, sir.

Q. Your opinion is that the republicans have been afraid to vote since? A. It is my opinion that at the last election they failed to vote.

Q. Did they fail to vote? Wasn't there a full vote at the last election? A. No, sir, they lacked about five hundred of their being a full vote.

Q. Was not there an importation before the August election? A. I think there are about two thousand voters in the county, and there were but about 1600 or 1700 votes. I don't know whether there was an importation or not. I never saw one.

Q. Sixteen or seventeen hundred votes given in August, were there? A. There were I suppose something like that—sixteen or eighteen hundred.

Q. You mean at the August election? A. Yes, sir.

Q. How many were given at the special election in December? A. I don't know, sir, I think that there were nearly as many.

Q. Then if they voted in December about as they did in August, where were the men that were frightened away? A. At the August election a great many of them were absent from the state, and some would not come out—perhaps some that did not go out. Some were absent from the state, and some from one cause and some from another—

Q. Kirk was there to protect the election in August, wasn't he? A. Yes, sir.

Q. Then there were some sixteen or seventeen hundred votes given then and about the same number in December when Kirk was not there? A. Yes, sir, about the same.

Q. Then who was frightened away that did not vote? A. I suppose the fright in the first election was on one side, and at the last election on the other side. There were at least four or five hundred republicans absent at the last time.

Q. Don't you know that it was an inclement day—a cold day? A. Yes sir.

Q. And that the people don't turn out at a special election as they do at a regular one? A. I was at court and there were a good many that said that they didn't care at the last election, about coming out—that they were afraid to come out.

Q. We dont care what they said. Do you know of any man that was frightened from the polls and didn't go and vote? A. Not in my section.

Q. Within your section—within the sphere of your knowledge,—no man has been prevented from voting according to his sentiments? A. They generally have voted there.

Q. On the other hand do you know of any colored or white men who by reason of their votes were discharged from employment? A. Yes, sir, I have known them on both sides.

Q. I speak now in relation to the North Carolina railroad shops. A. Yes, sir.

Q. Do you know of a good many people discharged from

there because they would not vote the republican ticket? A. I suppose they were discharged for that reason. I don't know what was the reason, but I suppose that was the reason.

Q. At the last election? A. Yes, sir.

Mr. McCORKLE. Just speak of your own knowledge.

*Re-Direct Examination.*

By Mr. BADGER:

Q. You say there were a great many outrages committed in the county and there were none punished and no evidence produced. Why was it that there was no evidence produced? A. Well, sir, I suppose ——

Mr. GRAHAM. It is not worth while to conjecture on the subject.

The WITNESS. I don't know what was the reason. There was no evidence produced at all, but the people there had no idea that the evidence could be come at. No evidence was come at in any of the cases that were brought up before the law.

Q. In all those cases in which Kuklux committed crimes and were not punished, were they not said to be disguised by the parties who complained to magistrates for warrants? A. Almost all, sir.

Mr. GRAHAM. How is that?

Mr. BADGER. I asked if they were disguised and therefore no evidence could not be got.

Q. You say there were three disguised persons that were punished? A. There were three disguised persons punished at the court and found guilty.

Q. Who were they? A. Negroes, sent to the penitentiary. Those were the only cases.

Q. Did you ever have any conversation with Gov. Holden in regard to the condition of Alamance?—that I left out. A. I have not, sir.

Mr. GRAHAM. I object to that.

Mr. BOYDEN. He has answered and said he had not.

LUCINDA MORROW, (colored,) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. How old are you? A. I doesn't know my age, sir.

Q. What county do you live in? A. Orange.

Q. How far from the Alamance line? A. About twelve miles. I live in Hillsboro'.

Q. How long have you been living in Hillsboro'? A. Have been living in Hillsboro' about twelve months.

Q. Where did you live before that? A. I lived down on Cane Creek, in Orange.

Q. How far from the Alamance line? A. Just about three miles, I reckon.

Q. You lived in Orange more than twelve months ago? A. Yes, sir.

Q. Three miles from the Alamance line, on Cane Creek? A. Yes, sir.

Q. Who was your husband? A. Thomas Jefferson Morrow, sir.

Q. Did you have any children? A. Yes, sir.

Q. Who were they? A. One of them, Nelson, and there are Washington and Daniel and A. Mitchell and Sam.

Mr. GRAHAM. I object to any evidence offered by this witness.

Mr. BADGER. We propose to connect the outrage in this case with Alamance county. I want to go along cautiously so as not to give rise to objection.

Q. What has become of your husband? A. He was hung.

Q. When? A. In the fall, sir.

Q. The fall of what year? A. Year before last.

Mr. MERRIMON. Mr. Chief Justice, they ought not to prove anything about this transaction unless they show it is in Alamance, and that fact they ought to show, if they can, at the outset.

Mr. BADGER. We cannot get it out in any other way—I cannot ask the witness who hanged her husband before I proved

he had been hanged. I propose, when I ask the witness who hanged him, to show that he was hanged by disguised men from Alamance.

The CHIEF JUSTICE. That will be proper, provided it is connected in that way.

Mr. BADGER. The whole of it will be stricken from the record, if that matter is not proved.

The CHIEF JUSTICE. If you can connect it you can go on.

Q. How long ago did you say this was? A. In the fall.

Mr. GRAHAM. I do not know what proof the gentlemen may have upon that subject. Our information is that there have been some crimes on this border, but what county the perpetrators came from, whether one or the other, we are not informed. I take it that the gentlemen expect to connect it with Alamance.

Mr. BADGER. If it is not connected I shall move myself to have the evidence stricken from the record. I don't want to take any unfair advantage.

Q. You say that your husband was hanged? A. Yes, sir.

Q. State all the circumstances of his hanging.

Q. [By the Chief Justice.] You have not said when it was—how long ago? A. It was in the fall. I can't tell exactly what time in the fall, but it was the time they were sowing oats.

Q. Was it last fall twelve months, or two years ago? A. Last fall twelve months ago.

By Mr. BADGER [resuming.]

Q. State the circumstances, all about his hanging? A. He was in bed. They took him out of bed and they tied the rope around his neck and took him out of doors.

Q. What time in the night was it? A. It was about midnight, I reckon, as well as I can tell. He was taken to the fence and kicked over the fence.

Q. How did they get into your house? A. They broke the door down. They shot through the house first.

Q. How many shots? A. There were three bullets through

the house. One of them came in the trunk—shot through the trunk.

Q. You say they knocked your door down? A. Yes, sir.

Q. How many persons came into your house? A. I cannot tell how many came in. There were a great many of them.

Q. About how many? A. I reckon there were about twenty-five or thirty, as well as I can remember.

Q. Were they disguised? A. Yes, sir.

Q. How were they disguised? A. They had a gown on—something just like a lady's gown.

Q. Any other disguise besides a gown? A. Yes, sir, they had their faces disguised.

Q. What color? A. White, sir, the eyes were red and the nose was red.

Q. State what they did? A. They just took him out of the house.

Q. How did they take him out? A. They put the rope around his neck and took him out of doors, kicked him about and knocked him about a while, before they got over the fence. Before they went out of doors, he said, "For the Lord's sake let me tell my children good bye." One of them says, "G—d d—n you we'll tell *you* good bye;" and he says, "Farewell, wife;" and he tried to reach my hand to tell me good bye, and they snatched him back. Then he said, "For the Lord's sake let me tell the baby good bye;" and I reached the baby over toward him and he told the baby good bye. The children were all screaming and halloaing. I said to them, "Oh, gentlemen! oh gentlemen! please spare my husband this time!" They said, "Oh, G—d d—n you, we'll spare him." Said I, "Oh, gentlemen, are you going to kill my husband?" "Well, G—d d—n you, you will see him again." They got him out of the door, and after they got him out they took and kicked him and put him over the fence and carried him off. And we all got out into the yard and commenced screaming and halloaing. I heard one of them say, after they got down the road apiece,

"Go back and kill every G—d d—d one of them." We went into the house and got our clothes and ran out into the field and never went back to the house any more. That is all we saw of him till the next morning, and we commenced hunting for him then. We found him then. He was dead.

Q. Where was he? A. I don't know how far from the house—about half a mile, I suppose.

Q. Found him dead? A. Yes, sir, and there was a piece of paper pinned on his breast.

Q. Where was he? A. He was at the forks of the road there.

Q. How was he circumstanced? Was he on the ground? A. No, sir, he was not on the ground. He was swung up—him and my brother. He was swung up, and he was that clear of the ground, I reckon—[holding her hand two or three feet above the ground.]

Q. Was he hung by a rope? A. Yes, sir, a bran new rope.

Q. Who else did they take out of your house besides your husband? A. Nobody but my husband out of my house.

Q. Who else did you see there besides him the next morning—what other body? A. Nobody.

Q. I mean where the hanging was? A. I didn't see anybody there but my other brother, and they were both hung together—about as far apart as from that post to there, [indicatidg about twenty-five feet.]

Q. What was it they said? A. We turned to halloaing; we thought we might get somebody to hear and come and protect us, but we didn't get anybody. Some one of them halloaed, "G—d d——n you;—go back and kill the last one of them."

Q. What did you do then? A. We went out into the field and took a pallet and put the baby upon it, and made up a bed and staid there the whole night.

Q. Who were they that did this thing? A. One of them was Mr. Milton Pickard, and another Mr. Arnold Smith——

Q. Where does this Milton Pickard live? A. In Alamance county.

Q. Who else do you say? A. Mr. Thompson.

Q. Which Thompson? A. John Alvis Thompson.

Q. Where does he live? A. He lives in Alamance.

Q. Who else? A. Mr. Smith.

Q. Which Smith? A. Mr. Arnold Smith.

Q. Where does he live? A. In Alamance.

Q. Who else? A. Joe Thompson.

Q. Where does he live? A. In Alamance.

Q. You say you know them? A. Yes, sir.

Q. How long have you known them? A. I was raised with them, sir, all raised there right together.

Q. You were satisfied you knew them that night? A. Yes, sir.

Q. You knew them as part of the men who took your husband out and hanged him? A. Yes, sir.

Q. Do you know any of the others? A. No, sir.

Q. When you found your husband the next morning hanged with your brother, who was there? A. Nobody there but ourselves when I got there—my daughter and myself.

Q. Did anybody come there? A. Yes, sir.

Q. Who? A. A great many came there. Mr. Gaston Stanford came there, and some of the Mr. Pickards, and Mr. Oldham. They held a jury over him, and when they held the jury Mr. Oldham took the paper off his breast—Thomas Oldham, he read the paper.

Q. What was on it? A. "All barn-burners, all women offenders, we Kuklux hang by the neck till they are dead, dead, dead."

Q. When had you seen your brother last before you saw him hanged there? A. I hadn't seen him in three or four days before.

Q. You say he was hung to a tree? A. Yes, sir, he was hung. They hung him that high [holding her hands as high as

she could reach—nearly seven feet.] They took my mother's bed cord out, and hung him.

By Mr. GRAHAM:

Q. You don't know anything about that? You were not there? A. Yes, sir, I was there. I saw him hanged.

Q. But I mean, you don't know where the bed-cords came from—you weren't there when they took them? A. No, sir.

Q. What is your mother's name? A. Esther Morrow.

Q. Is she living now? A. Yes, sir.

Q. Was she there that morning? A. She came there. My sister went.

Q. What is your sister's name? A. Sally Morrow, sir.

Q. You said it was a year ago last Fall? A. Yes, sir.

Q. At the time they were sowing oats—where does Esther Morrow live? A. Alamance.

Q. How far was it from the Alamance line where they hung them? A. I don't know. I don't suppose it was a mile.

Q. Was it towards Alamance from your house, or towards Orange courthouse? A. It led away towards Hillsboro'.

Q. You live three miles from the line? A. Yes, sir.

Q. Was this hanging toward the Alamance line or towards the court house side? A. Toward the court house side.

Q. Towards Orange court house? A. Yes, sir.

Q. Hillsboro', too? A. Yes, sir.

Q. How far did you say this hanging was from the Alamance line? A. As near as I can tell, I reckon it was about a mile or two miles.

Q. How far do you live from the Alamance line? A. I live in Hillsboro' now.

Q. But then? A. I lived about that distance then.

Q. How far was the hanging from your house? A. Just about half a mile from where they took him—out of the house.

Q. Was it in the direction of Alamance? A. Yes, sir.

Q. Or in the direction of Hillsboro' from your house? A. In the direction of Alamance.

Q. The hanging I mean? A. Yes, sir, Alamance.

Q. Then you correct your statement made just now; you say it was in the direction of Alamance? A. Yes, sir.

Q. Did you live on the public road? A. Yes, sir, we did.

Q. Were the men mounted or on foot? A. They were on horses. I didn't see the horses, but we heard them after they left the house. They didn't bring their horses, if they had them, up to the house.

Q. Where was he hung—on the public road, or a private place? A. On the public road.

Q. What road was it? A. I don't know, sir. It was a public road, though, that runs from Gaston Stamford's to Chapel Hill.

Q. How old was your husband? A. He was forty-some years old, sir.

Q. How old was your brother? A. I don't know his age.

Q. Was he as old as you? A. No, sir.

Q. How much younger? A. There was two years' difference.

Q. He was two years younger than you? A. Yes, sir.

Q. How long have you been married? A. My oldest child is twenty-two years old, sir.

Q. Was any of the party ever indicted for this hanging that you know of? A. No, sir, not as I know.

Q. Do you know of any other outrages by men from Alamance? A. No, sir.

Q. Were you summoned and examined as witness at the inquest? A. Yes, sir.

Q. Were you examined as a witness? A. Yes, sir.

Q. Was that the last time you were ever examined? A. Yes, sir.

*Cross-Examination.*

By Mr. GRAHAM:

Q. Had there been some barns burned there just before that? A. Yes, sir.

Q. Whose were they? A. One was Mr. Miner's and the other was Mr. Jones's and the other was Mr. Jessee Morrow's.

Q. All found burning at the same instant? A. Yes, sir, I believe they were.

Q. They were close by—in the same neighborhood where your husband lived? A. Yes, sir.

Q. And each one of them had a barn burned and they were all found burning at the same time? Yes, sir.

Q. You say they were examined when the coroner was there examining in reference to your husband's death? A. Yes, sir.

Q. Did you state upon your examination then that you saw these men there? A. Who done it?

Q. Yes, I am speaking of this. When you were sworn before this coroner there at the inquest did you charge that Picard and Smith and Thompson were the persons that hung these men? A. They never asked me anything about it.

Q. Did you say anything about it? A. No, sir.

Q. You did not say then before the coroner that those were the men that did it? A. No, sir, they never asked me any thing about it.

Q. What did you tell them, that you did not know who did it? A. Yes, sir, I told them I could not tell them then who done it.

Q. You did not know who did it? A. No, sir.

Q. That is what you swore to then? A. But I knew them.

Q. How is it that you profess to know now who did it, if you didn't know then? A. The reason I told them that I did not know it was because I knew if I told them that I knew who done it they would come on me and kill me afterwards. That is the reason I didn't tell it—I was afeared to tell them so.

Q. You say then that you swore to an untruth at that time? A. I was obliged to do it, because if I had told them I knew they would have come on me and killed me.

Q. But you didn't tell the truth, and you were then stating it upon oath. Is that so? A. They never asked me anything about it. If they had asked me to tell them and if I hadn't

been afeared to tell them I would have told them, but I was afeard of my life.

Q. You say in the first place you didn't tell it because they didn't ask you, and in the second place you say you didn't tell it because you were afraid? A. Yes sir, I was afeared to tell it. I knew them, and if I had told them they would be coming on me and killing me, after they had done so much to me as they had done.

Q. You say you told them you didn't know it. Mr. Oldham was there and all the good men of the neighborhood, weren't they, at that time? A. Yes, sir, he read the paper that was on the breast.

Q. There was no danger, then, if you had told the truth at that time? A. I don't know whether there was or not.

Q. But there was no danger then? A. I don't know it, sir.

Q. You didn't know that those good men who were there would protect you against danger? A. The Lord knows who the good men were, I didn't.

Q. You didn't know who the good men were? A. No, sir.

Q. And you say you didn't tell it because you were afraid? A. Yes, sir.

Q. And because they didn't ask you? A. Yes, sir.

Q. But that you did know all the time? A. Yes, sir, I knew.

Q. Those men, you say, lived in Alamance? A. Yes, sir.

Q. Milton Pickard, Arnold Smith, Joe Thompson and John Alvis Thompson. They are the men, you say? A. Yes, sir. If I had let on and told, they would have come on me and killed me. I wouldn't have had no protection.

Q. Undoubtedly, but you didn't tell it, and you were swearing at that time? A. Yes, sir, and many a one has told just such a tale as that.

Q. We don't want any argument about it, we want to know what took place between you and them. How did you happen to know these men? A. I have been always raised with them.

Q. Were they dressed in the usual way? A. You could

tell them by their clothes. Their gowns were so [showing a shorter length] and they tried to alter their voices, but they could not alter them so that I could not know them.

Q. You knew them? A. That is all I knew.

Q. How many were there altogether? A. There were so many that I could not tell you how many there were.

Q. Were they so disguised that you would not have known them if you had not seen them from the knees down? A. Yes, sir.

Q. You would not have known them if you had not seen that part of them from the knees down? A. I would not have known them if I hadn't seen the pants. I would not have known the bodies. I would not have known the bodies if they hadn't had the disguises on.

Q. But having the disguises you would not have know them except that you saw them from the knees down? A. Not excepting I saw the face.

Q. You didn't see the face? A. No, sir, I didn't see the face.

Q. So that you knew them from the fact that you saw from the knees down? A. I saw that and knew the voice.

Q. All of them? A. Not all of them—but those four or three.

Q. Who did the speaking—who talked so as to show his voice? A. All of them talked but I could not identify the voices of all of them. When they come in and put the rope around his neck and I commenced begging to let him loose, I knew the voices.

Q. What sort of pants did they have? A. They had pants that I knew. The pants had stripes. You know the stripes run up the sides. I knew which way the stripes ran.

Q. You didn't know anybody else that had striped pants except them? A. Yes, sir, I knew somebody that had striped pants, but I could not tell the stripes on them. Them I knew.

Q. But you didn't tell anybody about it at the time? A. I was afraid to tell anybody.

Q. When did you first tell of it to anybody? A. I don't know, sir, I don't remember now.

Q. You don't know when you first told any one? A. No, sir, I don't know what time it was.

Q. That took place you say last fall a year ago—that is eighteen months ago. When did you first tell it to anybody that you knew these men? A. I never told it till I came down to Hillsboro'. I told it to some of my colored friends in Hillsboro'.

Q. Twelve months afterwards? A. Yes, sir, I told them at the time my children were all distressed. They didn't tell anybody about it.

Q. You never told anybody out of the family till after you moved to Hillsboro'? A. No, sir.

Q. You have been there now about twelve months? A. Yes, sir, a little over eleven months.

Q. What did you tell afterwards about it? A. I told Mr. Edward Ruffin, a colored man, and Lewis Cain and Washington Tate and Mr. Jenkins.

Q. They were all colored men? A. Yes, sir.

Q. [By the Chief Justice.] Did you tell any white man? A. No, sir.

Q. You didn't tell any white man? A. No, sir. If you had been in the place that I was, you would not have told a white man.

Q. I don't know how that would be. No doubt your situation was bad enough, but I wan't to know what took place; how did you know they were going to hang him after they came there? A. The same way anybody could tell if they were tying a rope around his neck to take him out.

Q. You didn't know it was for that? A. They came right in. I knew it was for something, and when they came in and put the rope around his neck, any man could tell, or woman either, if they saw them tie it around.

Q. Did they say anything about burning a barn? A. No, sir, it was all on paper.

Q. They had a paper that said something about the burning of a barn? A. Yes, sir, it was a paper pinned on his breast.

Q. You don't know that your husband and sons were charged with burning a barn, do you? A. Yes, sir, that was the charge.

Q. Don't you know that they did burn it? A. No, sir, I know my husband did not.

Q. Don't you know the boys did? A. I don't believe they did; I can't clear them on that, because they didn't work with me. They worked at Mr. Sidney Webb's.

Q. Don't you know that your husband told them to do it? A. No, sir, I don't believe my husband told them.

Q. You have never heard when they spoke of burning barns—of his telling them to wait till there was something in? A. I never heard him say a word about it.

Q. You don't mind of his being burned out of possession of a house? A. Yes, sir, we were throwed out in the big road.

Q. Did you stop on the side of the road some time there? A. Yes, sir—they threw us out in the morning.

Q. I ask you if you don't know while you were there on the side of the road at your fire, the matter of burning this barn was spoken of between your husband and his sons? A. No, sir, it was not spoken of, and my sons were neither of them there when we were thrown out. They were both at Mr. Sidney Webb's, and Mr. Henry McDaniel, he was there—there was nobody there but him whilst we were moving. He was there talking with my husband about barns and fodder.

Q. I don't want McDaniel's conversation. I want to know whether between your husband and sons there was anything said about burning the barns? A. There was no such thing as that took place.

Q. Was there anything said about burning barns after there was something in them? A. No, nothing at all.

*Re-Direct Examination.*

By Mr. Badger:

Q. Where was your husband on the night these barns were

burned? A. At home, sick in bed. I was there waiting on him.

Q. Are you sure about it? A. Yes, sir.

Q. How do you know it was the night they were burnt? A. Because the next morning after the barns were burnt Mr. Tom Pickard came along there. He came in to see my husband who was sick, and he said then, "Have you heard the news?" My husband said, "What is it?" and he said "There were three barns burnt up last night."

Q. You knew these men by their voice? A. Yes, sir.

CLEMENT CURTIS, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. State where you live, how old you are and what is your occupation? A. I am fifty-two years old, I live in Alamance county and am a farmer.

Q. Were you a member of the Kuklux, White Brotherhood, or Constitutional Union Guard, or any one of those organizations? A. I was of the White Brotherhood, I guess. I think that is what it was.

Q. What klan did you belong to—what camp? A. I don't know the number of it. I belonged to the same camp that Mr. Jacob Long did.

Q. Was he chief of your camp? A. Yes, sir.

Q. How many members were there in it? A. I don't know.

Q. How many have you ever seen at any one time together in it? A. About ten, I think, as well as I can recollect—well, no, not ten of that camp. There were as many as ten or twelve encamped together, but not all from that camp.

Q. How many members do you know of your own knowledge, or by their statements to you, existed in the county of Alamance? A. I do not know, sir. I could call the names ——

Q. Robert Hannah, was he a member? A. I only knew it from his confession.

Q. You heard him make a statement? A. Yes, sir, others of us did.

Q. Jacob Michael? A. Yes, sir, I know him.

Q. J. H. N. Clendenen? A. Yes, sir.

Q. [By Mr. Graham.] When was it that you heard them make these statements? At the time Kirk was there, or before? A. Mr. Hannah's was I know, the others being members, as I have mentioned, from the fact that we were in camp together. I never was in camp with Mr. Hannah.

Q. James W. Foust? A. Yes, sir.

Q. D. P. Tee? A. No, sir, I do not know him.

Q. A. J. Patterson? A. I don't know that he was.

Q. J. A. J. Patterson? A. I don't know him to be one.

Q. John G. Albright? A. Well, I don't know that he was.

Q. Didn't he sign that same paper? A. Yes, sir, only from that.

Q. I mean from that? A. Yes, sir.

Q. Didn't the others—J. A. J. Patterson?

Mr. GRAHAM. I don't think any statements they made about the time they were making confessions are evidence.

The CHIEF JUSTICE. I don't think it comes under the rule. It must be something to countenance or encourage the thing while it was in progress. This was after they were taken up, I understand.

Mr. BADGER. July 28, 1870.

Q. Go on and state what you know about the organization of the White Brotherhood. A. Well, sir, in the fall, I think it was, of 1868, I was initiated into it by a man named Hargis—that was said to be his name. I don't know whether it was or not. I don't know the man, and never did.

Q. Where was he from? That county? A. I don't know.

Q. Was he a native of Alamance? A. No, sir, I don't think he was. If he was I didn't know it.

Q. Just go on and make your own statement. A. Well, at the same time, I think Mr. Henry Albright was initiated.

Q. What else took place then? A. Not anything at all,

only we were qualified and had some instructions given which I don't now recollect of.

Q. Tell all you do recollect about it? A. Well, the object of the organization, as far as I recollect, was to keep peace, to protect our property and families. There were crimes committed in the county and there seemed to me no other way to come at it.

Q. Was not the object of the organization purely political and for mutual protection? A. Well, sir, if there was anything political in it any more than, as well as I recollect now, that we would not admit any of the opposite party into the organization.

Q. Would you let negroes in? A. I guess not.

Q. In what way were you to protect your families? A. Well, in the first place the members would occasionally take a ride through the county to let people know that there was some organization in the county.

Q. How? disguised or not? A. Well, I suppose maybe they did. I never saw any person out except——

Q. That was the instruction? A. Yes, sir, I believe they were to be disguised.

Q. How many meetings did you attend? A. Two, sir.

Q. Who presided at the second meeting? A. Mr. Jacob A. Long.

Q. Where was it? A. Between my house and Graham; a mile south of Graham.

Q. What was done at that meeting? A. There was nothing done at all that I saw or heard except Mr. Long gave us some instructions and asked all hands to behave themselves and not to go and commit any crime.

Q. Was that the instructions Mr. Long gave you? A. Yes, sir.

Q. How long did you continue a member of the order? A. I don't know how you would estimate that. I never withdrew until 1870, but I never had anything to do with the organization from that day, which I think was in April, 1869.

Q. Did you withdraw from the organization because it had changed its objects? A. There were things done which I did not approve of which were charged to the organization; I did not know whether they were guilty or not, and I did not wish to have anything to do with them and I never did anything more but went and attended to my own business and had no correspondence with the members.

Q. Did you leave the organization and dissolve your connection with it because you found out that it had degenerated into something bad? A. I can't say that but it was charged with it. Of my own knowledge, I don't know that they had.

*Cross-Examination.*

By Mr. GRAHAM:

Q. You spoke of signing a paper with some others withdrawing from this thing. State under what circumstances it was signed? A. It was done for my own protection.

Q. Who prepared the paper? A. James E. Boyd.

Q. Did William R. Albright have anything to do with it? A. Not that I know of. I was not present when it was got up.

Q. It was gotten up and you were called upon to sign it as evidence of your dissolving your connection with this thing? A. Yes, sir.

Q. That was the time they were making the arrests? A. Yes, sir.

Q. Were you promised if you would sign it that you would not be arrested? A. Yes, sir, it amounted to that. I will tell you what I was promised. I was promised this: that if we would meet together in a meeting and dissolve our connection with it we should not be interrupted. We went that much further and signed that paper.

Q. If you would meet and dissolve your connection with it? A. Yes, sir, signing of the paper was not mentioned at the time.

Q. [By the Chief Justice.] You say you went that much further? A. In the first place I had that promise that if we would meet together and dissolve our connection with it we

should not be interrupted. After that, Mr. Boyd got up this paper and we signed it.

Q. Otherwise you would be liable to be arrested by Kirk? A. Yes, sir, of course.

Q. Did you understand in joining this organization whether you were to do anything in the way of resistance to the laws of the country? A. No, sir, I did not swear to do any such thing.

Q. Or that you were to deprive the black people of the right to vote as they pleased? A. No, sir.

Q. Was there any purpose in that to do anything of that nature? A. I think not.

Q. Was it any part of the agreement or obligation you took that you were to defend each other by false testimony and getting on juries and finding false verdicts? A. No, sir, I did not understand that as any part of it.

Q. Neither the oath nor the explanation had anything of that sort? A. No, sir.

Q. Your purpose was to protect yourself and families and property against crime? A. Yes, sir.

Q. And that in order to inspire some dread they occasionally made rides through the country to let the people know there was a force that could be applied in the event of crime being committed? A. Yes, sir.

Q. Were you arrested? A. I suppose you might term it so. I was never confined as the others were.

Q. By Burgen? A. Yes, sir.

Q. Describe to us the process by which you kept out? A. I was at Greensboro' one morning and I returned that night. My son was going up to the station after me and they stopped him about half a mile from Graham and took him a prisoner. Mr. William Albright—"Red eyed" as they called him, told Colonel Burgen that he was not the man they wanted, but that it was his father—they wanted me—they turned him loose with this understanding that when I came back from Greensboro' he should tell me I was wanted.

Q. All found burning at the same instant? A. Yes, sir, I believe they were.

Q. They were close by—in the same neighborhood where your husband lived? A. Yes, sir.

Q. And each one of them had a barn burned and they were all found burning at the same time? Yes, sir.

Q. You say they were examined when the coroner was there examining in reference to your husband's death? A. Yes, sir.

Q. Did you state upon your examination then that you saw these men there? A. Who done it?

Q. Yes, I am speaking of this. When you were sworn before this coroner there at the inquest did you charge that Picard and Smith and Thompson were the persons that hung these men? A. They never asked me anything about it.

Q. Did you say anything about it? A. No, sir.

Q. You did not say then before the coroner that those were the men that did it? A. No, sir, they never asked me any thing about it.

Q. What did you tell them, that you did not know who did it? A. Yes, sir, I told them I could not tell them then who done it.

Q. You did not know who did it? A. No, sir.

Q. That is what you swore to then? A. But I knew them.

Q. How is it that you profess to know now who did it, if you didn't know then? A. The reason I told them that I did not know it was because I knew if I told them that I knew who done it they would come on me and kill me afterwards. That is the reason I didn't tell it—I was afeared to tell them so.

Q. You say then that you swore to an untruth at that time? A. I was obliged to do it, because if I had told them I knew they would have come on me and killed me.

Q. But you didn't tell the truth, and you were then stating it upon oath. Is that so? A. They never asked me anything about it. If they had asked me to tell them and if I hadn't

would not do it. He said, "You have got a brother;" I said "Yes," and I said "I want you to release him, for he hasn't done anything." He said "How much whiskey will you give if I turn him out?" I refused to give any for some time, but at last he came down to ten gallons, and I said, "Turn him out," —but I never paid him the whiskey. [Laughter.]

Q. Ten gallons was the price of the release of your brother? A. Yes, sir.

The hour of two o'clock and forty-five minutes having arrived the court adjourned to meet to-morrow at 11, a. m.

## THIRTY-SECOND DAY.

SENATE CHAMBER, March 8, 1871.

The COURT met at eleven o'clock, pursuant to adjournment, Hon. Richmond M. Pearson, Chief Justice of the Supreme Court, in the chair.

The proceedings were opened by proclamation made in due form by the doorkeeper.

The CLERK proceeded to call the roll of senators when the following members were found to be present:

Messrs. Albright, Allen, Battle, Beasley, Bellamy, Brogden, Brown, Cook, Council, Crowell, Currie, Dargan, Edwards, Eppes, Flemming, Flythe, Gilmer, Graham, of Alamance, Hawkins, Hyman, Jones, King, Latham, Ledbetter, Lehman, Linney, Love, Mauney, McClammy, McCotter, Merrimon, Moore, Morehead, Murphy, Olds, Price, Robbins, of Davidson, Robbins, of Rowan, Skinner, Speed, Troy, Waddell, Warren, Whiteside and Worth—45.

Senator JONES moved to dispense with the reading of the journal, which was carried.

JAMES R. BULLA *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BOYDEN:

Q. State your age, your profession and what office you hold? A. I am forty-five years of age. I am a lawyer by profession, and hold the office of solicitor to the seventh judicial district.

Q. When were you elected? A. Elected in the spring of 1868.

Q. State whether you have been acting regularly ever since? A. Since the fall of 1868. I entered upon my duties the first Monday in September, 1868. Since that time I have been regularly performing the duties of solicitor of the circuit.

Q. State if you have attended the courts in Alamance, Guil-

ford, Caswell and Rockingham? A. Yes, sir, I have attended the courts regularly, and have been there every time.

Q. I wish you to state whether you have been able where, in your judgment the testimony was sufficient, to have any bills found against men charged with these crimes committed by the Kuklux?

Mr. GRAHAM. What counties do you speak of?

Mr. BOYDEN. He may begin with Alamance? A. There have been some bills found.

Q. How many? A. I don't recollect how many; I don't remember whether I had a bill found in Guilford or not.

Q. We will begin at Alamance? A. I don't think I had a bill in Alamance, except against some colored men.

The CHIEF JUSTICE. You need not speak of that.

Q. You have had no other bills? A. No not under the act to prevent persons going disguised. I suppose that is what you allude to?

Q. Or for whipping? A. Disguised?

Q. Yes? A. No, sir, I am not positive, but my recollection is that there have not been any true bills found by the grand jury of Alamance for persons committing any misdemeanors while disguised.

Q. State whether there have been bills sent to the grand jury in cases where, in your judgment, there has been sufficient evidence? A. I think so. I think there was a case of a man of the name of Harvey, and it occurs to me I sent other bills, but I am not positive. I had a good many cases of this sort. If I am allowed to explain, I will state that before the act passed to punish persons going disguised, there had been a good many depredations by parties in disguise, but the court held that it could not punish them under that bill for offences committed before it passed.

Q. Of course not? A. There were cases for assault and battery in Alamance. The bills were drawn for assault and battery while the parties were disguised, before the passage of the act, and there was this one case of Harvey, and I think

others—I do not know, but I think I sent other bills. There were a great many other complaints, and witnesses bound over —witnesses that I had summoned to investigate. My recollection is that Harvey's case was drawn under the act, but I am not positive.

Q. Now state whether you had any positive testimony as to their guilt?

Q. [By Mr. Graham.] State the cases—state Harvey's case? A. Well, according to what Harvey said about it, what he told—I didn't hear him examined before the grand jury, but according to what he told me, in my judgment it was sufficient evidence to find a bill on.

Q. How many besides Harvey were witnesses? A. I don't remember how many—do you mean in that case?

Q. Yes, I mean in that case? A. I don't remember who else. I remember I examined Harvey himself carefully about it, as he was a party upon whom damage was inflicted among others—he had been whipped, to the best of my recollection. I have no paper; I go entirely by memory.

Q. Did he state he knew the persons? A. He told me so.

Q. You sent the papers in? A. Yes, sir.

Q. And called him as a witness? A. Yes, sir.

Q. And the bill was not found? A. Yes, that is my recollection about it.

Q. Have you sent other bills? A. In Alamance? I don't remember. I was going to say it might be possible that I am mistaken about that being drawn under the act, but I know I prepared sundry other bills, and I know the testimony of some of them after I had drawn the bills and complaints had been made to me—after I examined the testimony ——

Q. We cannot understand you, you talk so fast. A. I say I would have witnesses summoned—bound over by justices of the peace, and summoned there by me. I would prepare the bills before I would talk with the witnesses, then the witnesses would swear to the misdemeanor being there, and the depredations being committed, but could not swear as to the parties.

I have had a number of cases of that character for being disguised.

Q. How mady cases can you state where there was sufficient evidence of fact, as you think, that they did not find a bill except Harvey's?

The CHIEF JUSTICE. Is that competent evidence?

Mr. GRAHAM. No, sir, I don't think it is.

The CHIEF JUSTICE. To ask as to his belief seems hardly competent.

Q. I will ask you this question, as to your judgment about the civil authority being able to punish any of these offences in Alamance?

Mr. GRAHAM. I object to that question. I do not see how the witness' judgment is a matter of any more force than the judgment of any other responsible individual. The witness can state any facts—he can state the general proposition, but he would have to give reasons for it, but as to stating a general fact of that kind in the way of opinion I think it is not evidence on which this court can act. As in the case of Harvey, or any other case, he must state what the evidence was, in order to enable the court to form any opinion, and he should not be permitted to give an opinion upon that subject. I submit that a general opinion on a question like this is a matter of no consequence.

Mr. McCORKLE. The relation, Mr. Chief Justice, of the witness towards the state is entirely different from that of most witnesses who are put upon the stand. By the laws of the state it is made his duty to prosecute the parties for violations of the criminal law within the bounds of this circuit. That then being the case, and the witness having testified that there were numerous outrages in the county, and that heretofore none of the outrages that had been perpetrated by disguised persons had yet been prosecuted in the civil courts of Alamance county, we think it would be entirely pertinent, as he is the law officer of the state in that district, for him to answer that question. Because, how are we to get at it otherwise? Ordi-

narily the rule would be for witnesses only to depose to such a state of facts as comes within their knowledge, and then the court would deduce conclusions of law from the facts stated by the witnesses. But in this case we think it is entirely different, and that it is perfectly competent for one who is entrusted with the sole and exclusive management of criminal prosecution in the district to answer the question as to whether the civil authorities did prove themselves sufficiently powerful to execute the civil law or to protect life and property.

Mr. GRAHAM. The witness may state anything he did in the execution of his office. What he did in order to bring offenders to justice is all competent, but to state a general opinion as an excuse for non-action on his part in certain duties, the performance of which was made obligatory is not permitted. That is what is proposed here—to examine him as to whether he thought it was necessary to execute his office in the county. That is really the question.

The CHIEF JUSTICE. Counsel will put their question in writing.

The counsel for the respondent then read the question as follows:

"Will you state whether, in your opinion, based upon the "bills of indictment sent by you to the grand juries of Ala-"mance county, and for cases tried in the superior courts in "said county against persons charged with being disguised, and "while so disguised committing crimes—whether the civil "authorities of Alamance county were able to protect the rights "and property of the citizens of the said county against these "disguised persons?"

Mr. GRAHAM. Mr. Chief Justice, we object to the question on various grounds, as it calls for a legal opinion among other things. The witness has spoken of one bill of indictment having been sent in the first place, and does not know of any other. This question calls for an opinion as to whether the civil law gave protection to the citizens of Alamance. We say, sir, it is clearly incompetent.

Mr. BRAGG. It is true, Mr. Chief Justice, that where experts are called upon questions of a professional character they can give opinions, but here the witness is a lawyer, and this certainly is not a matter about which he could give an opinion as an expert. A man expresses a belief as to whether a certain paper is or is not in the handwriting of a certain person. That is a matter which he cannot swear to positively, and there he is allowed to give his belief. So, in matters pertaining to a profession in which a witness is supposed to be learned, and therefore to have more knowledge of it than others who are not conversant with it, an opinion may be admitted and the law allows a witness in the particular line of his profession to give an opinion as an expert. In this case I do not know that the opinion of this witness is entitled to any more weight than any other citizen of Alamance. It is true, he is asked for his opinion based upon certain bills which were sent before the grand jury. But why not state the fact as to these bills whether they were found or ignored, and let this court make the inference as it has the right to do. He can give the facts beyond any question, but upon that subject the evidence of this witness is vague and uncertain any way. The gentleman asks him whether, in his opinion, based upon bills sent, the civil authorities could protect life and property in that county. It is the merest matter of opinion, based upon a few simple facts which he states here. I would ask what more weight is that opinion entitled to than the opinion of anybody else who knew the facts? The witness might as well be asked whether, from the evidence in this case, it was his opinion that life and property were safe in Alamance. And so they might have called any witness, and put him on the stand, and asked him "Have you heard all the evidence in this case?" "Yes, sir." "Well, sir, from what you have heard, do you "give it as your opinion that life and property were safe in "Alamance county in the month of March, 1870, when it was "proclaimed in a state of insurrection?" If this evidence now offered is proper, why is not that?

Mr. McCORKLE. We propose, Mr. Chief Justice, to modify the question propounded, and therefore will withdraw it for the present; I will state in what respect we propose to change it. In addition to what I there stated, we propose further to ask the witness whether, upon the information furnished to him by persons upon whom it was alleged that outrages had been perpetrated by persons in disguise, &c., the civil authorities of Alamance county were able to protect the lives and property of the citizens of said county.

Mr. GRAHAM. We object equally to that. It calls for hearsay and nothing more. The gentleman states what they expect to prove, and it is that, from the complaints made to him he formed some opinion. To that we object. He can state whether bills were sent or whether they were found or ignored. Any fact of that nature would be competent but nothing more.

Mr. BOYDEN. Mr. Chief Justice, and senators, I think this evidence which we are now about to offer is clearly competent. The witness is the law officer of the district. He is the person to be applied to for redress and protection, and we offer it as primary evidence, not hearsay. We propose to establish the fact that in numerous instances that persons came to him, as it was their duty to do, and gave the proper information so far as they possessed it, of these crimes being committed upon them; that they were continually occurring and that in most instances they were unable to give the names of the guilty parties because they were all disguised at the time when the offences were committed. That is one of the reasons which we allege rendered the arm of the civil power wholly unable to convict and punish any of those offences, and that in other instances where the perpetrators of the outrages were disguised and the victims were able to state that they knew them by their voices and other circumstances, when bills were sent in such cases they could get no true bills found. We wish to go still further; we wish not to be confined to Alamance county but to prove that in Randolph, in Guilford, in Rockingham, Caswell, Chatham and Orange this was the case.

The CHIEF JUSTICE. It is not worth while to go beyond the question now. Reduce your particular question to writing again. I understand you to withdraw the general question and propose to approach it by degrees.

Mr. McCORKLE. Yes, sir, we propose before submitting this question to ask the witness another question.

Mr. McCorkle having written the question read as follows:

"Will you state whether, upon information furnished offi-
"cially to you by persons upon whom it was alleged that parties
"in disguise had committed outrages, the civil authorities of
"Alamance county were, during the years 1868, '69 and '70,
"able to protect the lives and property of citizens of the said
"county against the crimes committed by such disguised
"persons, and whether the superior courts in the said county
"were able to punish for crime such disguised persons."

Mr. GRAHAM. We object equally to that, Mr. Chief Justice. How does the information furnished to the witness enable him to form any opinion in regard to how powerless the law was in the county. Sir, that question did not depend upon any information he received from them. It depended upon other public and general questions. But his opinion upon the whole subject is inadmissible. It is not the opinion of an expert. It is not the opinion of an official which an official is allowed to give, but it is simply a question of what conclusion he came to upon the tales told him by those persons who said they had been distressed. It may be that the information he received was untrue. It was not given upon oath. The way to test these things is to put that information in the form of an indictment and send that to a grand jury and see what they will do with it. It often happens that upon slight evidence a prosecution is instituted and in the progress of the investigation enough is brought out to induce a grand jury to find a true bill. But for a solicitor to take information communicated not under oath, and come to the conclusion that it is not necessary to proceed any further, and that the law cannot be executed, is no part of his duty.

His plain duty is, if he thinks the evidence sufficient to justify the sending of a bill to draw it and put it before the grand jury. If he thinks it is not, he will not do it. But as to judging whether a sentence can be executed or whether a conviction can be had as a matter of expediency or a matter depending upon external influences is a consideration with which he had nothing to do. The witness has already stated that the only difficulty he experienced in the matter was that when witnesses came to be examined, they were not able to identify parties. He does not as yet allege, as I understand, (and I do not think he will) that there was any power which prevented the execution of the law—that there was any resistance to its execution, if the officers of justice were furnished with the proper precept. The only difficulty in the matter was, according to the evidence, that nobody could be identified or charged with the crimes imputed.

Mr. SMITH. Mr. Chief Justice, the witness is the prosecuting officer for the state in the county in which the outrages occurred, which we are now inquiring into. It was his official duty to bring to the notice of the grand jury cases where he could obtain evidence that would warrant them in making the investigation.

It is not his duty to send cases to a grand jury, which upon the evidence, as he understands it to be, would not warrant the finding of a bill. He is not required to do so unnecessary an act. But if there be any reasonable amount of evidence which would warrant the finding of a bill, it would be his duty to send the case to the grand jury. The question is substantially this: whether upon various complaints of outrages made to him acting as solicitor, he was able to bring any of the perpetrators to punishment—whether the civil authorities of which he was a part were able to execute the judgment of the law upon offenders and why it is that so large a number of infractions of the law were committed in that county entirely unredressed. He is the solicitor of the district charged with prosecuting offenders, and must be, or ought to be familiar with all the facts to

which his testimony refers. Ought not the court therefore, to have the benefit of his opinions or of any facts known to him whereby they may be able to say that the civil power was paralyzed and that exactly that state of things existed, which, under the Shoffner act authorized the governor to use military force? That is substantially the question asked him as prosecuting officer—whether, having failed to send bills, or bills failing to be found, or whatever may be the case—the civil authority, he being a part of it and intrusted with a very important part of its execution, was capable of affording protection to life and property.

Mr. BRAGG. Mr. Chief Justice, I dislike very much to take up the time of the court, and perhaps this whole discussion will be a needless one. But it seems to me that the question now presented is more objectionable in the present shape than the other was. The gentleman after discussion thought proper to withdraw that. An opinion was asked in that, based upon certain facts which were stated in the question. Now, sir, an opinion is asked for upon certain other facts which are stated in this question but which are of a vague and indefinite character. There is about the same difference between them as between tweedledum and tweedledee, except, perhaps that this is the more objectionable of the two. Grant, for the sake of argument, that there was such and such a state of facts in the county of Alamance, it is a matter of argument for this court and not for the opinion of the witness as to whether there was or was not protection for the citizens. I submit the question is not proper.

The CHIEF JUSTICE. The presiding officer is of the opinion that the question is not competent. The witness may state facts from which this court will draw its own conclusion and opinion, but he has no right, even although he be solicitor, to give an opinion of his own. For instance, he can state that a great many applications were made to him by persons complaining of having been whipped. He may state that because the proof was not sufficient in his opinion. He declined to

send bills, or that, in some cases he did send bills, but whethe the grand jury refused to find them because they were unwil ling to do it, or because the evidence was not sufficient, is a matter to which he cannot testify. As, for instance, the witnes on the stand yesterday—the colored woman—stated that sh knew the names of certain men by their pantaloons and by their voices. It might well be that she would go before a grand jury and the grand jury would say: "Well, you think so, but we are not satisfied with it." The question will be ruled out by the court.

By Mr. BOYDEN, [resuming.]

Q. Go on and state now whether numerous persons applied to you for redress for injuries done by persons in disguise?

The CHIEF JUSTICE. Stating that they had been maltreated.

A. Yes, sir, great numbers I would say.

Q. Large numbers? A. Yes, sir.

Q. What was done with their cases? A. In many of them there was nothing done, there could be nothing done. They could not give me a name to frame a bill upon.

Q. Why couldn't they give the names? A. They were disguised and they could not tell exactly who they were.

Q. You say they were numerous? A. Yes, sir.

Q. [By Mr. Graham.] You mean in Alamance? A. Yes, sir, in Alamance—numerous complaints in Alamance—a great many I would say—a great many of them probably. I could not frame any bill for the reason that they could not give me a name to put in the bill.

Q. [By the Chief Justice.] As I understand you had no difficulty about the fact that they had been whipped or something of that sort? A. No, sir, they were able to swear to that, but they could not give me a name to indict anybody, to draw my bill on. I think I had made some bills other than the Harvey bill I spoke of.

Q. But you cannot tell who they were against? A. No,

sir, it might be that I am mistaken about the Harvey bill, it was some bill however.

Q. You had none found? A. No, sir. I don't think there was a single bill found in Alamance for anything while the parties were disguised. There were a great many bills found there but none ——

Q. [By the Chief Justice.] Except the penitentiary case? A. Except the penitentiary case.

Q. Now go on to Caswell and give us what knowledge you have about Caswell? A. Well, there was quite a large number of complaints of different parties. The same was the case there—about the same extent according to the number. I think there were more complaints probably in Alamance than in Caswell—a great many in Caswell, and I think of one case where the witness refused to give me the name. The case, I think, of James M. Jones. He complained to me that he had been badly treated——

Mr. GRAHAM. I object to that. Mr. Jones could be brought here to testify, if he were maltreated. I object to his conversations with the solicitor.

Mr. BOYDEN. I don't care for the particular conversation.

Q. [By the Chief Justice.] He made complaint? A. Yes, sir, he refused to tell me at the time the names of the parties who abused him.

Q. [By Mr. McCorkle.] Give the reason why.

Mr. GRAHAM. I objected to his conversation, and I understood it was not to be given.

Mr. McCORKLE. We propose to ask him for this reason: A particular witness told him he was afraid of future punishment if he did divulge the names. If that were given in evidence, it would tend to prove the truth of the answer of the respondent that there was such a reign of terror existing in those two counties that the civil authorities could not administer the law. Now if it be true that this man Jones declined giving this man's name because he was fearful of another out-

rage upon him, it would be proof pregnant that there was such a state of lawlessness as justified the respondent in the course he adopted.

Mr. GRAHAM. There is no proof before this court that Jones was maltreated at all; but only that he went to the solicitor to make a complaint. He is yet living, I suppose, and if he is, then he should be brought here to testify as to his fears. There is no proof here to show that the complaint he made was not a false one. If it is undertaken to show that there was any failure to execute the law on his account, I submit that the proper way to prove it is to bring him here to testify.

Mr. BOYDEN. As to Mr. Jones he is not in the state and cannot be got here. Subpœna's have been issued for him but he cannot be found in the state—I understand he has left it. This complaint was a fact communicated to the solicitor, the proper person to whom the communication should have been made and it seems to me that it is admissible as evidence.

The CHIEF JUSTICE. I do not see any ground upon which it can be allowed unless the witness is dead.

Mr. GRAHAM. He is not dead.

Mr. BOYDEN. He is out of the state.

The CHIEF JUSTICE. The mere fact that the man Jones made this application to the solicitor is evidence, but the conversation and the reason given by him, I don't think can be admitted.

Q. [By Mr. Boyden.] You say there were numerous persons applied to you? A. Yes, sir.

Q. "A great many" was your expression? A. Yes, sir.

Q. But not near as large a number as in Alamance? A. I think not according to my memory. I am not certain as to that.

Q. For the same reason you gave in the other case—that they were disguised? A. Yes, sir,—could not identify them. I don't think I ever sent a bill in Caswell under the act. I think in every case except the one mentioned that they did not

know the names of the parties—they were not positive; they gave probably some instances but it was not sufficient.

Q. [By the Chief Justice.] You thought that they said it was not sufficient to form a bill upon? A. Yes, sir, I was satisfied it was not legal testimony.

Q. In Alamance or Caswell, since the law passed forbidding going disguised and making it a crime, have the grand jury ever presented anybody for this offence? A. I am not able to say whether or not—not a great many, if any.

Q. Do you know that they have any? A. I could not say positively if they had. I could not undertake to say that they have not.

Q. You cannot say they have ever presented one. A. No, sir, I could not say positively. I don't remember. They usually make the presentments or the information to me before they are returned in the court, so that I can draw bills if I can get witnesses during the term.

Q. I will ask you another question. Did the grand jury in either of those counties ever present anybody for going masked and committing crimes while they were masked.

Mr. MERRIMON. I take objection to that question on the ground that they do not propose to speak of a particular paper merely, but they propose that the witness shall state what the grand jury did. Now, the presentment in the court is the best evidence on that point. We have been allowed, and so have the other side, to speak of holding court without producing the record, although we did not produce it. Upon this side, we have been allowed to speak of a bench warrant or a states warrant without calling for its contents. But here it is proposed to ask the witness whether or not the grand jury made presentment of a particular character. That calls for the substance of the presentment itself, which ought to be proven by a certified copy of the presentment according to law.

The CHIEF JUSTICE. I understand that there never was any presentment.

Mr. MERRIMON. Then the testimony of the clerk will be the best evidence on that point.

The CHIEF JUSTICE. The clerk of course could prove it but the solicitor could say officially whether there were any presentments or not, because they are generally sent to the solicitor and upon them he draws bills as I understand it.

[To the Witness.] That is the course in your practice?

The WITNESS. Yes, sir.

Mr. MERRIMON. I beg to say, Mr. Chief Justice, that that is not the usual course of the law. The law requires that when a grand jury have considered matters called to their attention and decide to make presentments, that they go into court, headed by their foreman, and that the foreman shall inform the court that the grand jury make such and such presentments, when they are spread upon the records of the court by the clerk. I submit that the right way to prove the presentments is to have a certified copy of the record of the grand jury in each of those counties. If there were no record, it would be competent to produce the clerk and let him swear whether any presentments were made. The clerk of the very court in question was here upon the stand and examined, I believe, about this very matter.

Mr. BOYDEN. We do not propose to prove how many cases were sent, but we offer to show that there was not any presentment made by any grand jury notwithstanding these complaints were numerous and well known all over the country. What good would the record do, and what proof could that give? The record of both these courts has been as I understand, already before us here. I believe it only states that the court had been opened and adjourned. Whether the bills were found or not, surely this is the way to prove that there was no presentment. It is not only the practice in that section, but it has been the uniform practice throughout the state, that all presentments of the grand jury should be handed to the solicitor, and it has been his duty to draw bills upon them. I think, Mr. Chief Justice and Sena-

tors, that the giving of testimony as to the proceedings of courts, has been allowed from the beginning of this case until now.

Mr. MERRIMON. Not where we call for the contents of the paper or records. In that case the rule has been strictly observed, and my friend cannot point to a single instance where another rule has prevailed. But I say that the very character of the testimony which the witness is now giving, shows not only the importance, but the very great necessity of producing the records in reference to the matter now before this court. The witness has no distinct recollection about it, and he attends probably a dozen circuits. He cannot remember the particulars, unless his recollection is refreshed. If he could he would have an extraordinary memory. He is careful to state that he has no recollection about it. He recalls the fact that many persons came to him, both in Caswell and Alamance, but as to the presentiments he has no recollection. The clerk at the court in Caswell swore here that presentiments had been made, as you will find by turning back to his evidence. If it has not been so stated, it is a fact, which we can establish, that presentiments had been made in cases of this character. I make this statement to show the importance of producing the transcript of the record, which is the proper method of proof.

Mr. BOYDEN. Let me remind the gentleman of what he seems to have forgotten. I ask the gentleman how he proved that certain men had been convicted of crime and sent to the penitentiary, and how he proved that a certain other man had been convicted of rape and hung? Did they produce any records—do the senators recollect that? It has been the practice from the beginning until now, to offer this kind of testimony on both sides. A gentleman by the name of James G. Moore, the foreman of the grand jury, proved presentments made by him without the record? Is that forgotten?

Mr. MERRIMON. I forgot it.

Mr. BOYDEN. Well, I have a distinct recollection

and I think the senators will remember it also. He was asked how many and what presentments were made and he stated that three men were sent to the penitentiary and another man was indicted for a capital crime and was afterwards convicted and executed.

Mr. GRAHAM. He did not testify in regard to that at all. He was not a foreman at that time.

Mr. BOYDEN. He testified to those very facts.

Mr. GRAHAM. I beg pardon; I believe he did.

Mr. BOYDEN. He certainly testified to them, Mr. Chief Justice, and I recollect that he was the foreman at that very time. He stated that those were the only three cases that he could remember, but he thought there were others which he could not remember. So, Mr. Chief Justice, it is strange that they after giving this kind of testimony themselves for weeks should say, when we come to reply in the same way, that it cannot be done.

Mr. MERRIMON. The foreman of the grand jury of Alamance, the chief justice and senators will remember, swore to matters and things which transpired in the grand jury room. He did not swear to anything that was on the record at all. He was asked particularly on the cross-examination about the evidence that was before the grand jury, what weight they gave it, and whether there was evidence to warrant the finding of a true bill. We did not offer the bill at all, because it was not material. But there is another answer to all that. If improper evidence has been admitted that is no excuse for them to offer other evidence of the same character, because they sat here and did not object when it was introduced.

Mr. McCORKLE. Mr. Chief Jsutice, I trust I will be pardoned for making a single remark. As my associate counsel has said, it has been the uniform practice of the counsel on the other side to introduce evidence of the proceeding of the courts especially in Alamance without contradiction. In addition to the instances cited by my associate counsel, I well remember that the old man Zachary was asked as to how many days the courts

were open, and a number of interrogations were propounded to him on that point, he alleging that the courts had not been open, while the counsel on the other side attempted to establish the fact by parole that such was the fact. But I care nothing about that. The true point of enquiry is—is the evidence which we propose calling out competent? That is the sole question. Who is the witness? Why, he is the law officer of the state in that district. The law makes it his duty to examine every presentment that is made by the grand jury. It is his duty to draw bills and send before the grand jury upon every presentment after he has investigated it, if he believes that the ends of justice require and the evidence is sufficient to warrant a conviction. That being the case, why is he not the most proper of all persons to answer the interrogations? "Why," says my friend, "you must go to the records "and prove these facts." What would the record present? Nothing whatever but negative testimony one way or the other that there was *no* presentment against the parties as we allege. Thus the evidence of the records would be entirely negative. In that event supposing we had the clerk here, his evidence would not be worth so much as that of the solicitor. Suppose, however, that it turns out that presentments were made and that we had a transcript here, we would find that A B, C D and E F were presented for violations of the law prohibiting persons from going disguised. Would it not then be competent for us to ask the solicitor whether upon examining the witnesses upon which those presentments were based, the parties were so disguised that the witnesses did not know any of them? It is the only way by which we can show that the civil authorities were powerless there to administer the law.

Mr. BOYDEN. I should like to call attention in the very case I mentioned to the testimony of James S. Moore on page 644 of the journal in this trial. He states in answer to my friend (Mr. Graham) that Bulla was the regular solicitor, and then follows this:

"Q. He sent in a number of indictments of various kinds? "A. He sent some, I don't remember how many, but I remem- "ber one or two. Q. You remember one against Allen Pais- "ley, and two other negroes? A. Yes, sir. Q. They were "charged with whipping Henderson Coble? A. Yes, sir. "Q. A true bill was found against them, and the case disposed "of at that term? A. Yes, sir. Q. Do you know the case of "another colored man where a bill was preferred against him "for a capital crime and he was convicted? A. Yes, sir, "Tarpley. Q. He was convicted and executed? A. I heard "he was executed—that is my impression. Q. Your body "found a true bill against him? A. Yes, sir. Q. For this "very heinous crime? A. Yes, sir. Q. Do you know whether "he was arrested in due course of law and not by a mob? A. "Yes, sir. &c."

The CHIEF JUSTICE. There is no doubt that according to the course taken, this kind of evidence has been offered in the case, but if there were now any strict legal objection to it, the presiding officer would not admit it. But the proposition is simply to ask the solicitor whether, in the course of his business, the clerk handed to him any presentment, or whether he applied to the clerk and got any, and I suppose that he was going to say he did not.

Mr. GRAHAM. No, he said that he did not know whether there was or not.

The CHIEF JUSTICE. The presiding officer does not know what he was going to say, but he has the right to answer that question.

The presiding officer would here remark to the senate that at the commencement of this proceeding he suggested to several senators, Senator Warren among others, that the counsel should be limited as to the time and as to the number who should speak in discussing these questions of evidence. But the senators decided that they would indulge counsel both as to time and numbers, and therefore he is frequently obliged

in deference to the ruling of the senate, to listen longer than he has any particular desire to.

Senator WARREN. I will state, Mr. Chief Justice, that the rule confining counsel to half an hour has not been abrogated, but is still in force.

The CHIEF JUSTICE. And as to numbers? Was there not a motion made that counsel should not be confined to any time?

Senator WARREN. That was as to one occasion only.

The CHIEF JUSTICE. The presiding officer did not consider it was temporary but that it was permanent and he has acted upon that supposition.

Senator WARREN. It is a mistake.

The CHIEF JUSTICE. The presiding officer told the clerk to note the time occupied by the counsel in speaking, but he has ceased to do it under the supposition of the presiding officer that the rule had been abrogated. You can now ask the witness the question as to whether there was any presentment.

By Mr. BOYDEN, [resuming.]

Q. Either for persons going disguised or persons committing crimes when disguised, have any such presentments been handed to you or have you got any from the clerk in Alamance and Caswell? A. I can't say positively. Some grand jury on this circuit did make a presentment or two. I don't know when it was and could not say positively. I would say this, that if they did they were very few compared with the number of crimes.

Q. Were there any in Alamance or Caswell? A. I don't remember positively, no I could not say.

Q. You state then you don't remember any? A. No, sir, I don't remember any.

Q. Did the magistrates return many cases which were sent to you? A. Well, yes, sir, there were cases sent up.

Q. Of that character I mean? A. Yes, sir.

Q. Going disguised? A. Yes, sir, there were cases sent up

to me. I cannot say about how many but a number of cases were sent up to me in that way.

Q. How compared with the number of crimes?

Mr. GRAHAM. He does not know the number of crimes.

Q. What was done after taht? A. There were bills prepared on some of them, I think.

Q. What became of them? A. They did not find true bills. There was a bench warrant, I believe. I don't think there were any bills sent in Caswell. I don't remember that they identified—probably they did in one case, but they got off, probably on a bench warrant of Judge Tourgee's, but the witnesses were absent out of the county and did not come up some how, and there was no bill sent in that case. In another case they could not identify them even where they had got them bound over by some magistrate's warrants. That was occasionally, but not very frequently.

Q. The bills were not found then? A. No, sir.

Mr. GRAHAM. The bills were not sent, as I understand the witness.

The WITNESS. I could not say positively about sending. I don't remember sending any bill on a magistrate's warrant.

Q. You could not identify these men? A. No, sir, that was the trouble in these two counties. I did in some other counties on magistrates' warrants.

Q. We are speaking of those two counties. Were any bills sent at the last term of Caswell superior court against persons that had been bound over to answer for the murder of Stevens by the Chief Justice here at Raleigh? A. No, sir, there was no bill prepared in that case.

Q. State why? A. The witness could not be got there—a material witness—I was informed. There was one Womack—I believe that was his name, he has gone and never has returned. I think he is in Tennessee. I got the papers a day or two before the court adjourned. It was a very short court, only three or four days.

Q. And you did not see the papers until when? A. I think it was the day before the court adjourned, I am not positive.

Q. And no witnesses were bound over? A. I saw no recognizance if there was one—I overlooked it.

Q. You could not find who the witnesses were upon whose testimony they were bound over? A. No, sir, I had a partial list of the witnesses by newspaper account as examined, and I was informed that Womack a material witness who testified to Wylie standing in the passage—Wylie one of the defendants bound over in the case—he was absent and could not be had. There was none of them there, I could not get a single witness.

Q. Was that your reason for not sending a bill? A. Yes, sir, I should have prepared a bill if I could have got all the testimony.

*Cross-Examination.*

By Mr. GRAHAM:

Q. Did you not state from the testimony furnished you that you could not ask the grand jury to find a bill? A. I don't recollect. I don't remember what I did state to the court. I remember that a material witness was absent, or understood to be so.

Q. Womack was a black man, and had gone off with Kirk's troops? A. That was my understanding.

Q. And when the case was discussed in court did you not state to his honor in the presence of persons there that you could not ask the grand jury to find a bill on the testimony? A. I don't remember that I so stated. I know I stated a witness was absent.

Q. Evidence was sent to you in writing? A. Yes, sir.

Q. The chief justice had had an examination here? A. Yes, sir, that was sent up among the papers.

Q. The evidence was sent to you in writing? A. Yes, sir.

Q. Did you not state in the presence of the court at that time that upon the testimony you had you could not expect

the grand jury to find a bill? A. I don't remember what I said upon that occasion.

Q. You didn't ask that the prisoners should be rebound? A. No, sir, because I could not account for this witness Womack—if that was his name. The information I received was that he went off with Colonel Kirk's trooops, and was gone out of the state.

Q. You didn't ask that the parties should be rebound? A. No, sir, I did not.

Q. There were some other persons that he was a witness against was he not? A. I don't remember—do you mean Womack?

Q. Yes? A. I don't remember.

Q. Did you not have those other parties against whom he he was a witness rebound? A. I don't remember about that. There were some parties rebound. I do not know whether Womack was a witness or not.

Q. Do you recollect the cases of Patillo, Atkins and Fowler? A. I don't remember the names.

Q. Those persons you had rebound? A. I had some persons rebound on a bench warrant.

Q. Was not Womack a witness in that case as well as in the other? A. I don't remember.

Q. We allege that he was. Is he not the man who complained of having been whipped? A. I don't remember the names. I cannot tell how that was.

Q. Some were bound over by Mr. Stevens and some were bound by Judge Tourgee, and you caused those persons to be rebound? A. Stevens do you say?

Q. Stevens during his lifetime as a magistrate had bound some and Judge Tourgee had bound others, and Womack was a witness or alleged to be in those cases. Did you not have the parties rebound at that term? A. I don't remember.

Q. You didn't call for the rebinding of Roan, Mitchell and Wylie for the murder of Stevens? A. No, sir.

Q. Did you not state in court at the time that you would

not ask the grand jury to find a bill upon the evidence before you? A. I don't remember.

Q. Did the judge call upon you to know whether you asked to rebind them? A. My recollection is that the judge asked me what I had to say in resisting the motion. That is the usual way he does it. I think he did so then.

Q. Do you know that in another case, that of Jones, in Caswell, the grand jury sent for him three times? A. Yes, sir, I think so.

Q. They sent for him, and he could not be drought in? A. I think the grand jury did order him to be brought in, that is my recollection.

Q. He would not appear? A. I think I remember that he did not appear, but I do not know the reason.

Q. Was he not staying at Stevens' house? A. I am not aware of it. I do not know where he stays. I saw him one time.

Q. You saw him at Yanceyville during the term of the court? A. I do not remember whether I saw him there or not—my impression is that I did.

Q. You know that the grand jury sent for him, and could not get him? A. I knew that some member of the grand jury told me they sent for him. I cannot say I saw the papers that they directed to him to come there.

Q. Jones was the same man who had made complaint to you? A. Yes, sir, James M. Jones.

Q. He was the same man? A. Yes, sir, he was acting justice of the peace, or had been.

Q. The grand jury sent for him and they could not get him before them to testify? A. I recollect they sent for him and I think he didn't come. I don't remember whether that was the week I saw him there or not, but I saw him there at several courts.

Q. Do you know whether the court was not adjourned at a very early day of the fall term? A. Do you mean the court in Caswell?

Q. The last term? A. Yes, sir, I think on Thursday or it may have been on Friday.

Q. Do you recollect the judge's instructing the clerk not to receive any presentment after he left there—did he leave whilst the grand jury was still in session? A. I don't remember.

Q. You don't remember whether he left while the grand jury was in session? A. No, sir, not in the fall term, or any other term. I think the grand jury had adjourned before he left. It may be that he came off the bench before the grand jury adjourned, but my recollection is that he was in town when they adjourned.

Q. Didn't the foreman of the grand jury come to you at the hotel and state that the judge had left, and give you a presentment there? A. I think so. He offered to give them to me.

Q. The foreman came to you for the reason that the clerk had refused to receive the presentments? A. Yes, sir, I think it was at the fall term.

Q. And the judge had told him not to receive any presentments after he left? A. Yes, sir.

Q. Whether there was any presentment in regard to these secret outrages you do not know? A. I didn't look over the presentments, but I told him that I would take the liberty to hand them to the clerk.

Q. You say that in Caswell you never sent a bill for any secret outrage? A. I don't remember to have sent one. I don't say positively that I did not. I remember investigating cases, but I don't remember sending any bill.

Q. This fellow Jones was the only man who made the complaint? A. No, sir, I think other parties complained—several others.

Q. Who were they? A. I don't remember any of their names. They were colored persons.

Q. Is Jones a white man? A. No, sir.

Q. He could not be brought to testify at all? A. No, sir.

Q. Who were the colored men who made complaints in Caswell? A. I don't remember the names—perhaps I did

not know them at the time. It seems to me there were some other cases.

Q. You say you cannot name any of them? A. No, sir, I cannot call any names.

Q. Jones is the only case that you can name? A. Yes, sir, that is all. I did mention one other where the parties were bound over by the judge. That was a case of that character I think. That is the case that has been alluded to here.

Q. In that case you say the witnesses were not there? A. Yes, sir.

Q. And these parties were rebound? A. Yes, sir. I remember Jones' name, but I cannot call any of the other names.

Q. These cases you speak of—there do not seem to have been many of them—were they at the spring term of 1870? A. I cannot say. My impression is that there was no outrages committed in Caswell as early as they were in Alamance.

Q. Were any cases brought to your attention at the spring term in 1870 at Caswell? A. I cannot say as to the date precisely. I know it was sometime after. There are so many counties in the circuit I cannot recollect.

Q. Didn't these complaints in Caswell refer to alleged outrages which had taken place between the spring and fall terms? A. I cannot say as to the dates.

Q. You do not know of any complaint for an outrage of that kind brought to your attention before the fall term of 1870? A. I don't remember any. There may have been, but I cannot say positively as to dates. I cannot fix the time. I know it was not so early in Caswell.

Q. In relation to Alamance, have you any recollection of ever sending in a bill to the grand jury except in the case of Joe Harvey? A. I don't remember the name. I drew other bills, but whether I sent them to the grand jury or not, I don't recollect.

Q. In Harvey's case the bill was ignored? A. I have never

heard of it myself. I know there was no *capias* issued, and no case came up.

Q. Do you know that the grand jury was composed of men of different political sentiments? A. I don't remember, but I presume it was. It is usually so.

Q. Do you know the fact that Harvey admitted since then that he did not charge the right man? A. I do not know it.

Q. He swore that he was mistaken in the man altogether? A. I have never seen Harvey since.

Q. In relation to crimes in that circuit, have there not been various other offences besides these murders and whippings by these secret organizations by disguised men; have there not been arsons, thefts and other crimes for which you could not get proof against the parties?

Mr. McCORKLE. Does the counsel confine himself to Alamance and Caswell?

Mr. GRAHAM. Yes, sir.

Q. Were there not other cases, burglaries, arsons and thefts that you were unable to get proofs so as to send in a bill to the grand jury? A. There were in Caswell, but I think not in Alamance. There were cases of barn-burning in Caswell in which I could not get any testimony.

Q. Were there not numerous thefts? A. Yes, sir, a great many.

Q. The thieves could never be found to prosecute them? A. Yes, sir, we never could get at them.

Q. In both of these counties? A. Yes, sir, that is my impression, in both of them.

Q. Do you know in either of these counties of any person applying for a state's warrant to bind over a person to good behavior, or to appear at the court and failing to get it? A. I don't know of any case.

Q. Do you know of any case of resistance to the law, so that the process could not be executed? A. No, sir, I do not remember any cases.

Q. Every civil officer having a process could execute it? A. Yes, sir.

Q. Without any resistance? A. Yes, sir, they had no difficulty except in cases where a man was drunk perhaps and resisted a constable. I never knew of a case of resistance by a mob.

Q. Haven't officers been able to serve processes at all times since you have been solicitor? A. I think they have.

Q. The courts of justice have been regularly held at the usual terms? A. Yes, sir, there has been a term held in almost every case.

Q. At no term of the court has the judge failed to be present, or yourself as solicitor, failed to be present? A. He has attended every term.

Q. You sent in a considerable number of bills to the grand jury at each of those terms? A. Yes, sir, I did. At the last term in Alamance we had no grand jury.

Q. Don't you remember of having specially complimented the grand jury at the spring term of 1870, for the fidelity with which they had done their work? A. I don't remember at what term it was, but there was a grand jury that worked very faithfully and I complimented them; but I don't know which one it was.

Q. It was one of which James G. Moore was foreman? A. I don't remember who was foreman; he may have been.

Q. They worked faithfully on the matters you sent to them? A. They worked faithfully and did it promptly and quick. That is what I meant by complimenting them. I had no means of knowing what else they did.

*Re-Direct Examination.*

By Mr. Boyden:

Q. Did you say you heard of barn burnings in Alamance county? A. I heard of one, but I think the party was known in that case.

Q. I ask you if you heard of any barn burnings, where the parties could not be found, in that county? A. I could not be

positive about Alamance, but it was my impression that there was a number just across the line.

Q. [By the Chief Justice.] Do you recollect any case in Alamance? A. No, sir.

*Cross-Examination.*

By Mr. GRAHAM:

Q. Don't you know that Mr. Holt's barn was burned in Alamance and no person has been prosecuted for the crime? A. It is my impression that I know of no particular case.

Q. I ask you whether you didn't hear the barn of Mr. Holt living two or three miles from Graham was burned, and that no person has been discovered as having perpetrated it? A. I cannot say positively.

Q. You don't remember as to that? A. No, sir.

ANDERSON MORROW, (colored) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BOYDEN:

Q. Where do you live? A. I live in Orange county about three miles and a half from ——

Q. Where did you live at the time Jefferson Morrow was hung? A. On Cane creek.

Q. What county? A. Alamance.

Q. How far from the line? A. I lived in Alamance.

Q. How far from the Orange line? A. About a half a mile.

Q. Do you recollect he was hung? A. Yes, sir.

Q. What did you do the day after he was hung? A. I went to the mill.

Q. I mean about burying him? A. He was hung in the night and the next day I went to the mill. I heard of it and they asked me if I would not come up there, but I did not have time to go up to the house where the men were then but they came to me to help dig a grave to put him away and I did so.

Q. You saw him buried? A. Yes, sir.

Q. Where were you on the night before you buried him—the night before he was found dead? A. I was home.

Q. Alamance county? A. Yes, sir.

Q. State what took place; if you were awakened, and if so what you heard? A. I was awakened up and I heard a great many horses apparently going long in the road.

Q. How near was your house to the road? A. Ten or twelve steps.

Q. You heard apparently a great many horses passing. How many do you think? A. There appeared like there might have been twenty-five or may be more, and it may not be so many; it made a great deal of noise going along—I could not say how many there were because I could not see.

Q. What time in the night was it as near as you recollect? A. As near as I can recollect it was along towards nine or ten o'clock, somewheres along there.

Q. Tell if at any other time you heard a crowd passing after that?

Mr. GRAHAM. I would rather you would not lead the witness.

Mr. BOYDEN. I try to avoid it and I make it a rule not to ask leading questions in every case.

Q. [By the Chief Justice.] Go on and tell what you heard? A. In the night afterwards I heard some coming along back.

Q. What time was that? A. It was before day in the morning. I don't know how long before day.

Q. Were there more of them when they returned? A. They did not make as much fuss when they come back as when they went.

Q. State if you looked in the road the next morning and if so what you saw? A. That was when I looked the next morning. They came from Hillsboro——

Q. We will not talk about that now—that took place afterwards—you say that on the night Morrow was hung, about nine or ten o'clock you heard quite a number of persons passing your house on horseback? A. Yes, sir.

Q. And you think there were twenty-five or thirty? A. Yes, sir, I heard them go along.

Q. Then you say that before day you heard a number coming back into Alamance—coming towards Alamance? A. Yes, sir, I heard them going and coming.

Q. You heard them going towards Orange? A. Yes, sir, and coming out that way.

Q. Going from Alamance towards Orange? A. Yes, sir.

Q. Did you hear anything about a boy being taken out of jail and shot in Hillsboro? A. Yes, sir.

Q. Did you know him? A. Yes, sir.

Q. He was shot? A. Yes, sir, I knew him.

Q. He was shot? A. Yes, sir.

Q. How long before had you seen him in jail—before he was taken out and shot, if you saw him at all? A. I saw him in the jail directly after he was put in jail.

Q. How long was that before he was said to have been taken out? A. I reckon some two or three weeks.

Mr. GRAHAM. I do not see how that is relevant.

Mr. BOYDEN. We expect to prove that the very night he was taken out and shot a crowd passed this witness' house again both ways.

Mr. GRAHAM. I suppose that it is a considerable distance from this witness' house to Hillsboro'.

Mr. BOYDEN. I will state that we expect to connect this boy's assassination with men coming from Alamance county. We expect to show, besides what the witness will state, that the morning after he was taken out the sheriff of Orange county with other men (the sheriff is now dead) followed horses tracks from Hillsboro' to within a mile or two of the Alamance line. And by this witness we expect to show that he lived on the road and he heard men going that way towards Orange and coming back.

The CHIEF JUSTICE. You can prove that—it is competent.

Q. You say that you saw him about three weeks in the

jail before he was taken out and shot? A. I think it was two or three weeks.

Q. Did you see him afterwards? A. After he was taken out?

Q. Yes, sir. A. No, sir, I never saw him afterwards.

Q. What were the names of the men? A. Nelson and Washington Morrow.

Q. Tell what took place where you were the night he was taken out and what you heard.

Mr. GRAHAM. Mr. Chief Justice, I object to the reception of this evidence. I understand the witness to live some twelve or fifteen miles from Hillsboro' and whether he saw or heard persons passing his house at that time is a matter which throws no light on the question before this court.

The CHIEF JUSTICE. The counsel for the respondent say that they will prove that horses were tracked from Hillsboro' to within a short distance of the line and this man lives within a half mile from the county line.

Mr. GRAHAM. Suppose it be so. This witness lives on a public road which leads to various other points besides the county of Alamance.

Mr. BOYDEN. It is not a question of how much the testimony is worth, but certaily it is competent proof for whatever it is worth.

Mr. GRAHAM. The court has already excluded any transactions that occurred outside of Alamance county except so far as citizens of Alamance county were concerned in them. and I submit that evidence like this in regard to a transaction which took place ten or fifteen miles from the scene of operations is not competent to be given in evidence in the case.

The CHIEF JUSTICE. The presiding officer thinks the evidence is competent but it will be for the court to say how much weight shall be given to it.

By Mr. BOYDEN: [resuming.]

Q. Go on and state what you heard that night? A. Which night?

Q. On the night that these Morrow boys were taken out of the jail and shot? A. The next morning after they were taken out of the jail I came on the road and I saw a great many horses tracks on the road which looked like they were fresh tracks.

Q. State how the tracks were? A. They were just fresh tracks—a great many of them.

Q. Which way?—were they going and coming again? A. They had passed and come back.

Q. Both ways? A. Yes, sir, it was in the public road.

Q. State whether it appeared as if there were a few or a great many? A. They looked like a great many.

Q. How many do you think from the tracks? A. They looked as if there might be twenty or more.

Q. Passing each way? A. Yes, sir.

Q. [By the Chief Justice.] Did you know they passed that night? A. I did not know it.

Q. Did you see the road before that day? A. No, sir, I did not see the road to look at it.

Q. Had you been along the day before? A, No, sir.

By Mr. Boyden [resuming.]

Q. State whether the tracks appeared fresh made? A. They were fresh tracks; looked as if they had been made shortly before.

Q. The night before, or how? A. I think they had been made the night before.

Q. You did not hear them pass? A. No, sir, I did not hear them pass.

*Cross-Examination.*

By Mr. Graham:

Q. You did not see or hear anybody that night? A. No, sir.

Q. Had you heard that these boys had been taken out of jail before you noticed the tracks? A. No, sir, I had not heard of it then.

Q. How came the tracks to draw your attention? A. Because there seemed to be so many in the road at that time and there

was such an alarm in the country about people going about at night, that I just thought it might be some of them had been out.

Q. You had nothing particular to draw your attention to the tracks except that? A. That's so.

Q. What road was it you saw them in? A. The road that leads from Mount Willing to Hillsborough.

Mr. BOYDEN. There is one question that I omitted to ask the witness, if the counsel will allow me?

Mr. GRAHAM. I have no objection.

By Mr. BOYDEN, resuming.

Q. I wish to ask you this question as to the houses on this road: How many houses are there towards Alamance before they got to the line? A. Before they got to the Orange line?

Q. Going back towards the Alamance line? A. I could not tell that.

Q. You live in Alamance? A. I live in Alamance.

Q. How many houses are there between your house and the Orange line? A. There are two.

Q. Then going on the road, say three miles, how many houses are there? A. Going back into Orange?

Q. Yes, sir? A. In three miles—let me see—you pass some four or five houses only.

Q. Who lived in those houses, tell the names? A. From my house the first is Joe Thompson's.

Q. Whose is the next? A. Jesse Morrow's.

Q. Are they colored ar white people? A. White people.

Q. Whose is next? A. It is Mr. Jesse Morrow's plantation, I don't know who lives there.

Q. What is the next? A. The next one, right on the public road, would be Mr. Oldham's.

Q. What is the next? A. That is all there would be.

By Mr. GRAHAM, [resuming.]

How far did you live from Hillsboro'? A. About twelve miles.

Q. You say you saw nobody passing that night at all? A. I saw nobody at all.

Q. Were you at home? A. Yes, sir.

Q. And your house is some eight or ten steps from the road? A. Ten or twelve steps.

Q. Were you up late that night? A. I was up right smart late that night, because I was making a pair of shoes or mending a pair. I was working on shoes, I know.

Q. Were you up until eleven or twelve o'clock? A. I reckon I was.

Q. And you did not hear anybody passing at all? A. Do you mean the night the boys were taken out of the jail at Hillsboro'?

Q. Yes. You say you were up until eleven or twelve o'clock at work on a pair of shoes, and you did not hear any noise that night? A. No, sir, I did not hear any noise that night.

Q. You heard no noise at all that night, neither going nor coming? A. No, sir.

Q. What time in the year was that? A. I most forgot what month it was.

Q. The barns were burnt and these boys were charged with it about July—was not that after harvest? A. July or August, somewhere along there.

Q. It was shortly after that, was it not? A. It was not a great while after that. I don't remember.

Q. They were in jail charged with that burning? A. Yes, sir.

Q. It was not long after this occurrence of the burning, and you say you did not hear anybody there going or coming that night? A. Not the night they were said to have been taken out of the jail.

Q. You say the distance from your house to Hillsboro' was about twelve miles? A. Yes, sir.

Q. And you say that in the morning there was nothing attracted your attention particularly, except there were a good

many tracks? A. Yes, sir, and I thought by the condition of the county at that time it was just some of them passing.

Q. Where did you see these tracks first, before your house? A. No, sir, I saw them in the road—it was some two miles from any house until we come into the big road. That is another road entirely.

Q. You lived at the same place both times you speak of, did you not? A. Yes, sir, I lived at the same place. I went from my house into Mount Willing road and then came to the big road.

Q. Was your house on the public road? A. A good many people go on that road, but it is not considered a real big road, but a great many people pass it.

Q. That road does not run into Alamance? A. Yes, sir, it goes right on directly to Mr. Newlin's factory.

Q. Does that Mount Willing road go to Newlin's factory? A. It goes to Newlin's factory from Hillsboro'.

Q. How far from your house was it where you first saw the tracks? A. It was some tow miles, I reckon.

Q. What time in the day was it? A. It was in the morning, after breakfast, I can't say exactly what time.

Q. Yon had not heard, then, that these boys had been taken out of jail? A. Not then, I had not.

*Re-Direct Examination.*

By Mr. BOYDEN:

Q. I understand you to say at the time you saw these tracks that they were the tracks of men on horseback and not in wagons?

Mr. GRAHAM. You did not ask anything on that subject before.

Mr. BOYDEN. I understood him to answer that they were on horseback.

Senator WORTH offered the following order:

*Ordered*, That the rules for the government of the impeachment trial be amended as follows:

I. The chief justice shall decide all questions of evidence

and incidental questions in the first instant without debate, unless he shall desire to hear discussion.

II. The counsel on either side may ask for a division and if the same shall be demanded by one-fifth of the members present, they shall be allowed fifteen minutes for discussion and no more.

The CHIEF JUSTICE put the question on the adoption of the order offered by Senator Worth and it was decided, on a division, in the affirmative—ayes 23, noes 14.

EMPSON MOORE, (colored) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BOYDEN:

Q. Where do you reside? A. Hillsborough.

Q. How long have you lived there? A. I went there in 1866.

Q. Have you been there ever since? A. Yes, sir.

Q. State what you know about the jail being broken open.

Mr. Manager SPARROW. I object to this testimony, Mr. Chief Justice. I cannot see how the jail being broken open in Hillsboro', in the county of Orange, can have any bearing on the issue pending here. There is no evidence that the parties that broke open that jail came from Alamance.

Mr. BOYDEN. We think we have already produced some evidence showing that fact.

Mr. Manager SPARROW. All you have shown is that tracks were seen by the last witness on the road.

Mr. BRAGG. Yes, sir, and twelve miles distant from Hillsboro.'

The CHIEF JUSTICE. The presiding officer would state that according to the rule that has just been adopted, counsel have no right to discuss the question. The evidence is not yet sufficient to connect the transaction in Hillsborough with the people of Alamance.

Mr. BOYDEN. I will proceed to that point now.

Q. State what you know about tracks being seen on the road

after the night these men were taken out of the jail at Hillsboro? A. I was summoned by the sheriff the morning after to go and pursue from the jail these men were taken from and to hunt these men, and in going on we found a large number of tracks.

By the CHIEF JUSTICE:

Q. Where did you first track them or strike the track? A. Right from just over the bridge the other side of the town.

Q. From near where this thing was done? A. Yes. sir. We went on for three miles in the country where the roads forked and there it looked like where they had stopped. There was a large number of horses tracks and some had left and went towards Alamance and the others towards Chatham. I got down from my horse and looked about and I found a piece of cotton cloth in the shape of a horn from ten to fourteen inches long,—it may be not quite so long—but it was stuffed with wheat chaff, and had blood on the end of it. I picked it up and carried it home and that hung in my shop for several months.

By Mr. BOYDEN, [resuming:]

Q. Never mind that, but go on and state what you saw? A. I went on to within some two miles of the line.

Q. Which branch did you take? A. I took the Chatham road.

Q. Would that pass into Alamance? A. Yes, sir, as near as I can remember.

Q. You followed that road how far? A. To two miles of the line.

Q. What line? A. The line between the counties of Alamance and Orange. A person who lived on that road——

Mr. GRAHAM. You need not state what he said.

Q. Tell how many houses there were from where you left the track to the Alamance line? A. I cannot state exactly.

Q. [By the Chief Justice.] Whose house did you stop at—what plantation? A. I was not acquainted along there; there was some three or four houses.

Q. From there to the Alamance line? A. Yes, sir.

Q. How many horses tracks were there—how many do you think? A. Some forty or fifty tracks I think.

Q. You followed them to within two miles of the Alamance line? A. Yes, sir.

Q. Why did you not go further? A. The sheriff considered——

Mr. GRAHAM. Never mind what the sheriff considered.

Q. Where is the sheriff? A. He is dead.

Q. You think there were forty or fifty tracks? A. Yes, sir.

Q. You traced the tracks from Hillsboro to that place? A. Yes, sir.

Q. And there was some three or four houses between there and the Alamance line? A. Yes, sir, as far as I can recollect.

Q. That you say was the morning after the jail was said to have been broken open, and these men taken out? A. Yes, sir.

Q. [By the Chief Justice.] The sheriff then took the track with the persons who were with him? A. Yes, sir.

Mr. BOYDEN. Mr. Chief Justice, we now propose to prove that the witness heard them at the jail.

Mr. GRAHAM. We submit, Mr. Chief Justice, that the testimony is not competent.

The CHIEF JUSTICE. The presiding officer thinks the evidence is sufficient to show the way the crowd came out.

Mr. Manager SPARROW. We would like to cross-examine the witness in reference to his knowledge first.

The CHIEF JUSTICE. That as preliminary is proper. You can do so if you desire.

*Cross-Examination.*

By Mr. GRAHAM:

Q. You say you went out three miles to where the road forks? A. Yes, sir.

Q. One road goes to Pittsboro'? A. Yes, sir, the Chatham road it is called.

Q. And there were tracks that took that direction? A. Yes, sir, and a part of them went towards Alamance.

Q. What place did you stop at—how far did you go? A. I don't recollect the man's name.

Q. Did you go as far as Bingham's? A. I don't know where he lives.

Q. That is a very notable place, and if you had gone as far as there you would have known. You were not acquainted with any of the parties where you went? A. No, sir.

Q. And you do not know how many houses there were from where you stopped and turned back to the Alamance line? A. Yes, sir, three or four.

Q. You did not see them that day, because you did not go any further. Were you ever along the road afterwards? A. I was along the road before.

Q. How many times? A. Once or twice.

Q. Did you know where the Alamance line was? A. Yes, sir, somewhere not far from the Oaks.

Q. Did you know the line when you went there? A. Not exactly.

Q. Did anybody ever show you where the line was? A. The sheriff——

Q. But he didn't go to the line that day? A. He spoke of it that day.

Q. That conversation is not evidence. Did anybody show you the line? A. Yes, sir, before that time.

Q. Who? A. A white gentleman showed me the line; he said it was the first time I passed there.

Q How far have you travelled that road out there—did you ever go to Woodey's ferry? A. No, sir.

Q. Don't you know that road leads to Woodey's ferry? A. I don't know exactly.

Q. You don't know that Woodey's ferry is in the corner of Alamance and Chatham? A. No, sir.

Q. And you don't know that that road leads to Woodey's ferry? A. I do not.

Q. You don't know where the Alamance line is? A. Not exactly, I was told where it was.

Q. You don't know what distance it was from the place where you stopped except that the sheriff said something about it? A. I imagined from where I stopped to where I was told, it was about two miles.

Q. That was your imagination? A. Yes, sir.

Mr. GRAHAM. I submit as matter of fact, Mr. Chief Justice, that this road leads not into Alamance.

The CHIEF JUSTICE. The presiding officer understood from the witness, Henderson Morrow, that his house was on the road, and that two miles from his house he came upon these tracks.

Mr. GRAHAM. It is a different road altogether. He spoke of the Mount Willing road which runs to Newlin' factory. This road that this witness speaks of is a road from Hillsboro' to Woodey's ferry on Haw river in the corner of Alamance and Chatham.

The CHIEF JUSTICE. Is Woodey's ferry below Newlin's fyctory?

Mr. GRAHAM. It is some distance.

Mr. BOYDEN. It goes to the corner of Alamance and Chatham as I understand it.

The CHIEF JUSTICE. That is not the same road that the other witnesses speak of, as the presiding officer understands it.

Mr. BOYDEN. It was my understanding that it was.

The CHIEF JUSTICE. The presiding officer thinks the evidence is not competent, as it appears to be the same road.

Mr. BOYDEN. I will also call the attention of the court to the fact that the parties followed this road for a considerable distance from Hillsboro'.

By Mr. BOYDEN, [resuming:]

Q. How far from Hillsboro' is it to the forks of the road? A. About three miles.

Mr. GRAHAM. This is a road, as I stated before, which goes from Hillsboro' to Pittsboro'.

Mr. BOYDN. As there seems to be some doubt expressed

we will withdraw the witness for the present, but shall offer him again when we have some further testimony.

HAYWOOD BEVERLEY, (colored,) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BOYDEN:

Q. Where do you live? A. Hillsboro'.

Q. How long have you lived there? A. I have lived there fourteen or fifteen years.

Q. I wish you to state if, on the morning after the jail was broken open, you were there and went with the sheriff, if so, tell where you commenced and how far you followed the tracks of the road, if at all, and tell it in your own way?

Senator JONES. I would like to enquire, Mr. Chief Justice, if there is any proof that the jail has been broken open. It seems to me that before any proof can be given upon that point it is necessary that it should be first shown that the act was done by men from Alamance county. Thus far any proof about the jail seems to me to be going outside of the previous ruling of the court.

Mr. BOYDEN. We shall endeavor to make that proof now.

Q. Go on and state what you know? A. The morning after the jail was broken open the sheriff came over for my wagon and horse to go where the Kuklux had broken the jail and taken the boys out.

Q. Go on and state with reference to finding tracks and following them? A. I went to the bridge where the boys were shot, and the sherriff demanded for me to get my horse and follow him. We tracked the horses out from widow Hobbs' three miles to where the road forks, and there one appeared to go to Chatham and the other to Oaks.

Q. In what county? A. Alamance county. The sheriff divided the party into two companies, and one party went towards White Cross on the left hand, and I follow the parties to the right leading directly towards Webb's store in Alamance.

We followed the horse tracks about ten miles from Hillsboro'. I never was in that country before, but a young man who had once lived in the country——

Mr. GRAHAM. You need not tell what he said.

Q. You followed the tracks about ten miles from Hillsboro'? A. Yes, sir.

Q. Tell about where you first discovered the tracks, and how many horse tracks there seemed to be? A. We discovered horse tracks first near the courthouse just across the railroad where this boy was shot. We tracked these horses for ten miles from Hillsbaro'. I stopped to feed my horse, and a party wha was along with us said we were about two miles from Webb's store,

Mr. GRAHAM. You need not state what that party said.

The WITNESS. Then I turned around, and went home.

Q. How many do you think there were—how large a number? A. I think there were about twelve or fifteen horses, tracks that we saw after we left the forks of the road, either more or less.

Q. Do you know whose house you stopped at? A. I know nobody in that section.

Q. Do you know where Webb's store is? A. Never was there. I heard the party who was along with me say it was along the road.

*Cross-Examination.*

By Mr. GRAHAM:

Q. You didn't go to Webb's store? A. No, sir, I went within two miles of it.

The CHIEF JUSTICE. Is that the Woodey's ferry road?

Mr. GRAHAM. It is.

Mr. BOYDEN. He said it led directly to Webb's store and the Oaks.

Mr. GRAHAM. It is a road which leads to this corner, and it passes a mile or two through Alamance, and goes in a direction which would lead him to Chatham.

Q. [By Mr. BRAGG.] Did I understand you to say that you were ever at Webb's store? A. No, sir.

The CHIEF JUSTICE. The witness may stand aside.

The name of the previous witness, Henderson Morrow was again called.

Mr. GRAHAM. We object to this witness being recalled.

Mr. BOYDEN. We desire to prove by him the roads which have become a matter of dispute here.

The CHIEF JUSTICE. The presiding officer decides that the witness can be again called as he was interrupted in the midst of his testimony. He can be called to that fact.

The witness did not answer.

JOHN W. HARDIN, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BOYDEN:

Q. Where do you reside? A. In Graham, Alamance county.

Q. How long have you resided there? A. All my life.

Q. What is your business? A. I am a merchant.

Q. Tell if you were there the night Outlaw was hung? A. I was.

Q. Tell all that took place and what you saw? A. I saw a party of disguised persons.

Mr. Manager SPARROW. I would like to know, Mr. Chief Justice, for what purpose this question is asked; if it is introduce for the purpose of simply proving the fact that Outlaw was hung, I desire to say that this is sufficiently proved already.

Mr. BOYDEN. We wish to show how many there were there that night—of the Kuklux. I think that there has been only one witness who has testified that he saw Outlaw that night.

The CHIEF JUSTICE. You may proceed.

Q. Go on and state what you saw that night? A. I saw a party of disguised men riding through the town. The first I

saw of them they seemed to be just riding about in little squads of five or six.

Q. [By the Chief Justice.] Did they have on disguises? A. Yes, sir, they were all disguised. They went about the street, and in aboat fifteen minutes I saw or heard some per sons screaming in the direction of Wyatt Outlaw's house, and then in about fifteen minutes, I suppose, I heard them hollow ing, and they came back down the street opposite my store and commenced hollowing, and kept up a terrible noise. I cannot tell what they said, but it was growling, moaning and hallow ing generally. They went down the street past Mr. Fonville's, and then they passed Mr. William Long's, out in the direction of William R. Albright's; they commenced and hallowed at his house. I could hear them coming up towards the court-house, and that was the last I heard of them until they went off.

Q. Can you state any estimate of how many there were? A. When I first saw them I saw two or three squads of five or six, I suppose, but when the crowd came back down to Mr. Long's I could not pretend to say how many there were, but I suppose about forty or fifty, just guessing at it.

Q. Did you hear any talk by any of them, and if so, what did they state? A. No, sir, I did not hear any talk.

Q. You say you heard screaming out towards Outlaw's house? A. It was in the direction of Outlaw's.

Q. And in about a quarter of an hour they came back? A. In about a quarter of an hour they came back along the street.

Q. And went out where? A. They went out by Mr. Fonville's and Mr. W. S. Long's and then towards Squire Albright's, where they commenced halloaing again.

Q. What sort of a noise did they make there? A. It was more like a pea fowl or guinea hen; it was like moaning and halloaing. I cannot say what sort of a noise it was.

Q. You and Mr. Fonville came out; what then? A. No, sir, I was at home. I did not go out of my house.

Q. Please inform us the state of feeling in the county

as to alarm on the part of the people—what has been the condition of it for two or three years just before the military came there? A. At that time everybody seemed to be excited. We got up in the morning and found Outlaw hung, and that created considerable excitement among the people.

Q. What has been the state of feeling there since and before? A. The political feeling has been very bitter.

Q. Between whom? A. Between the republicans and the democratic party, not especially as regards the colored people, but the whites as well as the blacks.

Q. What was the feeling as to safety among the republicans in the county, if you know it? A. I can tell you how I felt.

Q. State, if you know it, whether there was a feeling of terror and alarm?

Mr. GRAHAM. I hope the counsel will not lead the witness.

Q. State your judgment of it? A. My judgment is that the republicans were alarmed. There had been a number of outrages and no one punished for it ——

Mr. GRAHAM. You need not go into any argument about the matter.

Mr. BOYDEN. I submit, Mr. Chief Justice, that it is proper for the witness to state his reasons.

Q. Did you ever see any disguised persons at any other time? A. Yes, sir, in March, 1869, they were there. I saw them come up the main street and they stopped by Mr. Badham's, and in the front of my house in a line, and one of them rode out to Mr. Badham's and commenced making a little speech. I went out towards the door to hear what he was saying. As he went up he remarked that they did not come to hurt any person, and that they only came to give warning, and the next time they would come with vengeance. Then they rode off and rode towards the depot, and I heard twelve or fifteen shots fired.

Q. How many of them were there? A. About forty, as far I can tell.

Q. You say they said they did not come to hurt anybody there? A. They didn't want to hurt anybody then.

Q. But the next time they would come with vengeance? A. Those were the words.

Q. They were near Mr. Badham's? A. They were just in the middle of the street, and one of the company rode up to Maj. Badham's and after he got through, then he rode back into the ranks and ordered them to march.

Q. State what party Mr. Badham belonged to? A. He is a republican.

Q. Are you a magistrate? A. No, sir.

Q. Have you ever been? A. No, sir.

Q. Do you know of any reason why they should have gone to Mr. Badham's,—was he obnoxious? A. Do you wish me to give an answer?

Mr. GRAHAM. No, sir, it is not competent evidence.

The CHIEF JUSTICE. The presiding officer does not understand what you propose to prove.

Q. Do you know that any of them had anything against Badham?

Q. [By the Chief Justice.] Did they say anything that night in regard to Badham? A. They threw a little note into his house.

Q. [By Mr. Graham.] How do you know that? A. I saw the note.

Q. But you did not see them throw it in? A. No, sir.

Q. [By the Chief Justice.] There was a paper found there? A. Yes, sir, it was found there, so Major Badham told me ——

By Mr. BOYDEN (resuming:)

Q. Did you see what was on the paper? A. I saw a paper that ——

Mr. GRAHAM. Mr. Chief Justice, I submit that this is not competent evidence, it has not been proved even that it was found there.

Mr. BOYDEN. Then we shall have to call the witness back after we have proved that it was found there.

Mr. Manager SPARROW. But you don't know whether you can prove it or not.

Q. [By the Chief Justice.] The next morning you say you saw the paper? A. Yes, sir, I saw it.

[By Mr. BOYDEN, [resuming.]

Q. Did you hear anything said about Badham that night by these men?

Mr. BRAGG. We object.

Q. Do you mean these disguised men?

Q. Yes, sir? A. Nothing more than what I have told you.

Q. Was that speech addressed to Badham in the front part of the house? A. Yes, sir, this man that spoke rode up to the gate, and I think he knocked the gate down—he pushed the gate down. He was on horseback, and he made the address at Major Badham's house.

Q. Was Badham at home? A. I think he was.

Q. What time in the night was this? A. This was about ten o'clock.

Q. What year? A. In March, 1869.

Q. You did not hear anything they said only the noise at William Albright's? A. I heard nothing but the hollowing.

Q. Like sea fowls and guinea hens. A. Yes, sir, and they were moaning.

Q. [By the Chief Justice.] You think they were trying to make an insulting noise?

Mr. GRAHAM. I submit, Mr. Chief Justice, that the witness has not said so.

A. If you will allow me to tell you what I thought.

Q. What sort of a noise was it? A. I cannot make any such noise as they made. It was growling and moaning and halloaing and bellowing like bulls and all that sort of thing; at Squire Albright's, and at my house—in front of my store—as they went down the street between my house and my brother Peter's.

By Mr. BOYDEN [resuming:]

Q. Are they all republicans where they stopped and made these noises? A. Yes, sir.

Q. Was it Red-Eyed Albright you speak of? A. Yes. sir.

*Cross-Examination.*

By Mr. GRAHAM:

Q. Did Red-Eye have an armed guard of negroes at the time—was he not mayor of the town? A. At that time?

Q. Yes sir. A. I really don't know whether he was at that time.

Q. Did he have a guard of armed negroes at that time? A. Do you mean at the time these men came there?

Q. Yes, sir. A. I think not.

Q. He had had when he was mayor? A. Yes, sir, there was a guard about town.

Q. Black men? A. Yes, sir.

Q. Entirely? A. I don't know whether they were armed or not. I never saw them.

Q. You don't know that they were armed? A. No, sir.

Q. You don't know of any arms being sent there to be distributed by Albright? A. I do not.

Q. You state that the political feeling there was very bitter? A. Yes, sir.

Q. Was not there the usual intercourse between gentlemen of different politics? A. I think the feeling was very bitter.

Q. Was there not the usual intercourse between persons of different politics in the county? A. In some cases there was.

Q. When you met on the street was there not the common salutations and talk about common matters? A. No, sir.

Q. You were divided into parties and did not speak to each other? A. No, sir, and they do not speak now.

Q. Is that generally the case? A. With a few exceptions it is the case.

Q. Do you say that in the county of Alamance generally they did not speak to each other? A. No, sir.

Q. The two parties? A. There is a good number of the democratic party and the republican party who do not speak.

Q. That maybe; but do you contend that that is universal? A. I don't know whether the majority are that way or not.

Q. Parties are about equally divided in that county? A. I guess they are.

Q. Why was there this state of alarm then if they were equally divided? A. No more than that there had been so many outrages committed and no one punished, and we could not get——

Q. Were there any attempts to punish them? A. There were some attempts.

Q. You are not a magistrate yourself? A. No, sir.

Q. Didn't you know that men applied for warrants? A. Yes. sir, I think they did.

Q. Every man who applied for a warrant could get it and have the party arrested? A. Yes, sir.

Q. And if they went into the courts the complaints were heard? A. I suppose they were but they could never prove any one guilty.

Q. You speak of a bitter political feeling? A. Yes, sir.

Q. You are one of the county commissioners? A. Yes, sir.

Q. Have you the same feeling of bitterness yourself, pretty strong? A. I can't say I have.

Q. Didn't the board of county commissioners throw some 80 or 100 of the most respectable citizens of the county from the jury list? A. No, sir.

Q. How many did they? A. Several.

Q. How many? A. I can't pretend to say.

Q. Did you not throw out the name of Edwin M. Holt, the old gentleman? A. No, sir.

Q. J. W. Scott—Sidney Scott? A. No, sir, he is on the jury.

Q. Who did they throw out? A. I can't pretend to answer that question.

Q. Did you throw out as many as eighty? A. No, sir.

Q. Did you throw out as many as fifty? A. No, sir.

Q. As many as thirty? A. No, sir,

Q. Tell some of those you did throw out? A. I can't pretend to.

Q. After throwing out white men did you put in negroes? A. We put in some colored men.

Q. How many? A. I really cannot tell.

Q. Did you put in Caswell Holt? A. No, sir.

Q. Did you put him in? A. I don't think we did. If we did I did not know it.

Q. Did you put in Joe Harvey? A. No, sir.

Q. Name some of the white men you did throw out—give us some specimens? A. We threw out W. R. Albright for one and Mr. John Scott for another.

Mr. BRAGG. Do you mean Red-Eyed Albright? A. Yes, sir. We threw out old man Michael Shoffner; he asked us to do so and we did it. We threw out Jas. Newland. He sent up a petition and asked us to relieve him, and we did so, as he was not able to attend. Mr. James Newland sent up a petition and asked us to exempt him, as he was not able to attend. Those are a few that I recollect.

Q. Did you not put out other men who made no application at all? A. There were a good many of both parties who had not paid their taxes, and we could put any man on the jury unless he had paid his taxes for the previous year. That was the reason a good many of these men were thrown out.

Q. Were not some thrown out upon other grounds? A. I think there was one or two thrown out who were bound over to court. We thought we had no right to put a man on a jury if he was bound over.

Q. Who were they? A. I cannot recollect all of them.

Q. Can you recollect some of them? A. I cannot think of their names just now.

Q. What men you threw out were white men? A. We threw out white men and black men too.

Q. Why did you throw them out? A. On the ground that they had not paid——

Q. I mean what other grounds besides the non-payment of taxes? A. I never threw any out on account of politics.

Q. You did not? A. No, sir.

Q. Did you put any on on account of politics? A. I never did. We looked at the men's competency.

Q. You say you did not put on Caswell Holt? A. If he is on the jury I did not know it.

Q. Did you put on any colored man against whom there were charges of theft or who had imputations upon his moral character? A. We did not.

Q. Are not the colored men in the county employed by the white people? A. Yes, sir, they are.

Q. Is there a general state of harmony among the people in that respect? A. I don't know that they have been turned off on account of politics. There may have been cases, but I don't recollect any.

Q. Have they been allowed to vote as they pleased at the polls? A. I can only tell you what I have heard men say.

Q. We don't care about hearsay. I ask if they were allowed to vote, and if they did not generally vote the republican ticket? A. They did.

Q. Were you one of those who signed a letter to the governor asking him to send troops? A. I signed a letter which I heard read the other day.

Q. Asking him to send troops there? A. I can't say whether the letter asked the governor for troops or not.

Q. Did it not ask the governor to appoint Ray as colonel? A. No, sir.

Q. Was there not a postscript to that letter asking the appointment of Ray as colonel? A. Mr. Badham wrote the letter and I signed it.

Mr. SMITH. Mr. Chief Justice, I submit that the rule is when a witness is asked in reference to a paper, it must be produced.

Mr. GRAHAM. The letter is printed in the proceedings.

The WITNESS. I signed the paper that Mr. Badham wrote,

but there was nothing about Ray being appointed colonel tha I remember. It was signed by Henry Ray, my brother Peter, Mr. Badham and W. A. Albright.

Q. Did you sign it? A. Yes, sir.

Q. Then there was a recommendation of Ray to be appointed colonel? A. If that was in it I don't recollect it.

Mr. BOYDEN. I think you had better let the witness see the paper.

Mr. GRAHAM. We will produce the paper if it is wanted. I presume the clerk has it.

Q. Have you been very active in getting up evidence in this case? A. I can't say that I have.

Q. Have you not suggested witnesses for the defence? A. I think I have in one or two instances—one or two persons.

Q. You have taken an interest to the extent of suggestion of witnesses to be summoned to testify in the case? A. I have suggested the names of those who have made their confessions.

Mr. GRAHAM. We have found the letter alluded to, as printed. This is the postscript to the letter:

"We respectfully recommend Henry A. Ray as a suitable "man to take charge of the militia of this county. He is "brave, firm and reliable, and will exercise his authority di- "creetly. Respectfully." And it is signed, "Henry A. Brad- "shaw, W. R. Hardin, J. W. Hardin, W. A. Albright."

Q. J. W. Hardin is your name? A. Yes, sir, I don't recollect that part.

Q. The militia you called for were to be commanded by Ray? A. Yes, sir, if I signed that paper.

*Re-Direct Examination.*

By Mr. BOYDEN:

Q. You stated that you put certain jurors out of the box? A. Yes, sir.

Q. You stated, if I understand you, that you put no man out on account of his politics? A. None at all, sir.

Q. Nor did you put any man in on account of them? A Not at all.

Q. Several, I understood you, you put out at their request? A. Yes, sir, we put out some two or three at their request. They were not able to attend court.

Q. And you put out others who had not paid their taxes? A. Yes, sir.

Q. Did you endeavor to administer the law according to your best judgment? A. I did the very best I could.

Q. You stated that you had suggested some witnesses? A. I did.

Q. And they were witnesses that had made confession? A. Had made confession.

Q. Who did you suggest them to? To the counsel, or whom? A. I suggested them to the counsel.

Q. What was your object in suggesting them?

Mr. GRAHAM. I object to that, sir.

Mr. BOYDEN. It is a competent question. They have tried to impeach the witness and I want to show that his object was to elicit the truth.

Mr. MERRIMON. Of course he would say that.

Mr. GRAHAM. He made the suggestion.

The CHIEF JUSTICE. Yes, that is as far as you can go. That he made suggestions

Q. I ask you if the counsel did not suggest to you or ask you to tell anybody that you knew. A. Yes, sir.

Q. It was done then at the instance of counsel? A. Yes, sir.

Q. How did you happen to be at Mr. McCorkle's room when you made the suggestion? A. I was summoned there, sir.

Q. State if you was repeatedly sent for by him to come to his room? A. I was.

Q. And he asked you about who could be witnesses, and you told him? A. Yes, sir.

JOHN W. DUKE, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. Where do you live? A. Alamance county.

Q. What is your age? A. Thirty years.

Q. State how many persons you have seen, or how ma persons you saw during the year 1869, in the county of A mance scourged, or who had been scourged—whipped. There has been evidence given here that I am guilty of crim I don't wish to answer any such question.

Q. I don't say anything about your being guilty of crim I ask the question as unconnected with yourself. I ask h many persons you had seen that had been impeached or whipp

Mr. GRAHAM. The witness says that their has been e dence given charging him with crime, and he does not choo to answer that which may criminate himself.

Q. My question is, how many persons did you see in t year 1869, in the county of Alamance who had been scourg or whipped? A. I don't know that I ever saw 'ary one.

Q. I ask you again, did you ever see one scourged or in t act of being scourged? A. I object to that question. I d cline answering that question.

The CHIEF JUSTICE. The presiding officer thinks t witness is not compelled to answer if he will state that to do s would criminate himself; but he would have to state that.

Q. [By the Chief Justice.] Do you state it would criminat you to answer that question? A. Yes, sir.

Q. I will ask you this question. How many persons did y see in the county of Alamance during the year 1870, beginni with the first day of January up to and including the day th Kirk arrived who had been scourged? A. I don't know, understand the question fairly.

Q. Whipped and scourged?

The CHIEF JUSTICE. He asks you how many you sa between the first day of January, 1870, and the time that Ki came there, who had been whipped or scourged. A. I don know that I ever saw 'ary one.

Q. How many during that same time have you seen in t act of being scourged? A. Nary one, sir.

Q. Will you state whether, during the year 1869, in the county of Alamance, you saw persons riding or walking disguised. If so, when and how often and how many at each time? A. Well, I saw, I suppose, about half a dozen at one time at John Newlin.

Q. What other time? A. That is the only time that ever I saw them.

Q. That is the only time, in the year 1869, that you ever saw disguised men? A. Well, yes, sir, I saw them disguised at camps.

Q. When was that? A. That was in the year 1869—in the early part of it.

Q. How many times did you see them disguised at camps? A. It was two or three times.

Q. Where was the first time you saw them disguised in camps? A. It was in Alamance county, about fourteen miles from Graham.

Q. Which direction? A. South, on Deborah Johnson's plantation.

Q. How many of them were there? A. There were only two disguised men.

Q. Who was there who was not disguised? A. Well, there was William Lewis and John Newlin.

Q. Anybody else? A. Not to my recollection.

Q. Who were those that were disguised? A. John Albright and Seymour Coble.

Q. What was done that night? A. Well, I was initiated that night.

Q. Into this White Brotherhood? A. Yes, sir.

Q. Who presided—who initiated you? A. John Albright and Seymour Coble.

Q. Now go to the next time you saw them disguised in camp? A. Well, the next time ——

Q. Was anything else done except disguising? A. Yes, sir, I was initiated that night.

Q. Was anything else done besides initiating you? A. Y
sir.

Q. Tell us about the next time—where it was? A. It
on Robert Grimes'—he is deceased now. It was on his la
near his old residence.

Q. And on his land? A. Yes, sir.

Q. In the woods, or in the road, or in the house? A. In
woods.

Q. What time of day or night was it? A. It was, I s
pose, about ten o'clock at night.

Q. Whom did you see there? A. Well, I saw Thom
Morrow and William Stockard, Thomas Moore, John New
and William Newlin. I believe those are all I recollect.

Q. Were there any more there? A. Yes, sir.

Q. How many were there in all, do you think? A. I su
pose there were about nine.

Q. What was the number of that camp? A. I don't rec
lect.

Q. Tell as nearly as you can what your number was? A
think it was about number 7.

Q. How many members were in that camp? A. I do
know that ever I understood.

Q. Were there as many as thirty, forty or fifty? A. I do
think there were.

Q. Were there forty? A. I don't think there were.

Q. Thirty? A. I suppose there were betwixt twenty a
thirty.

Q. Was anything done that night? A. There were two
three initiated.

Q. Who were they? A. Thomas Robeson, Robert Du
and J. S. Henly.

Q. After they were initiated, what else was done?
Nothing else.

Q. Were these parties there that night disguised? A. Ye
sir, there were two or three disguised. I didn't know but o
of them.

Q. Who was he? A. Thomas Moore.

Q. When was the next time you saw anybody in camp disguised? A. It was a short time, I don't know exactly what time, but it was a short time after that.

The CHIEF JUSTICE. Are those new members, or are you going over the same ground again?

Mr. BOYDEN. It is not going over the same ground. This is in the native of a contamination of a witness who refuses to testify.

The CHIEF JUSTICE. The presiding officer merely asks whether you expect to find out anything new or not.

Mr. BOYDEN. It is new evidence, sir.

Q. Didn't you refuse to testify or to state what you knew about this matter in the room of Mr. McCorkle? A. I declined to answer some questions that he asked me.

Q. Didn't you decline to answer any question in regard to this matter? No, sir, I don't know that I did.

Q. State what you saw at that meeting. A. Well, I saw about the same thing.

Q. Who was initiated at the next meeting? A. Well, there were some of the Foust boys.

Q. How many of them, and who were they? A. Two of them, I believe.

Q. What were their names? A. George.

Q. What else? A. Daniel Foust.

Q. Anybody else initiated? A. I believe George Barbee.

The CHIEF JUSTICE. We have heard of all those men before.

Mr. GRAHAM. Yes, sir.

Mr. McCORKLE. Barbee was mentioned in connection with some whipping on the Chatham line, I don't recollect any other occasion in which their names have been produced.

The CHIEF JUSTICE. The presiding officer thinks he has heard all those names. The reason he refers to the matter now is to suggest that the examination may be shortened.

Mr. BADGER. The difficulty I am laboring under, Mr. Chief Justice, is that the witness would not state those things in the room. He is a leading Kuklux, and I am desirous of getting from him, as far as I can, the facts about the organization.

Q. You say your camp was No. 7? A. Yes, sir.

Q. Who was the chief of it? A. First, William Stockard was the chief.

Q. Who succeeded William Stockard? A. John Newlin, I believe.

Q. Who succeeded John Newlin? A. Claiborne Guthrie.

Q. Who succeeded Claiborne Guthrie? A. I don't know that any person did; I was appointed.

Q. By whom? A. By the meeting.

Q. How many were present when you were appointed? A. Well, I suppose three, four or five—may be more, but not to exceed eight.

Q. What did they do? A. I don't recollect.

Q. State whether you were not chief at the time Wyatt Outlaw was murdered? A. I think I was, sir.

Q. You think you were the night that Wyatt Outlaw was murdered? A. About that time I think I was chief.

Q. And you say James Foust was a member of your camp? A. No, sir.

Q. Didn't you state that James Foust was a member of that camp? A. No, sir, I said Daniel Foust and George Foust.

Q. Will you state whether any order came to your camp or to you from any other camp, either verbal or written, previous to the murder of Wyatt Outlaw, with regard to it? A. There did not, sir.

Q. Did any message come? A. No, sir.

Q. Did any body—a known Kuklux, converse with you in regard to the murder of Wyatt Outlaw, before it? A. They did not, sir.

Q. Have any conversed with you about it since? A. No, sir.

Q. Never said anything about it? A. They did not, sir. I did not know anything about it at all, until after he was killed.

Q. Do you know any that were concerned in it? A. I never did, sir.

Q. Did any order come to your camp with regard to the murder of Puryear? A. No, sir.

Q. Or Shoffner? A. No, sir.

Q. Of George Morrow? A. No, sir.

Q. The Morrow boys that were murdered over in Orange? A. No, sir.

Q. Did any orders come to your camp while you were in command of it, in regard to that murder? A. There never was an order that I ever saw to commit any crime at all.

Q. Tell me whether or not you know, either of your own knowledge or by anything that a known Kuklux said to you, whether any of the Alamance Kuklux went over into Orange to take those men out of jail and shoot them? A. I do not, sir.

Q. You never heard one say anything about it? A. I did not, sir.

Q. How far do you live from Webb's store? A. I live seven miles, I suppose—I live about two miles and a half from Woodley's ferry.

That's in Alamance county? A. Yes, sir, right on the Salisbury road.

Q. The road from Hillsboro' to Salisbury? A. Yes, sir.

Mr. GRAHAM. No, Chapel Hill.

The WITNESS. Oh yes—Chapel Hill and Salisbury.

Q. You say you have never heard any Kuklux or any member of the White Brotherhood say that he was in that raid? A. I did not, sir.

Q. You have never heard one say so? A. No, sir.

Q. Have you ever heard a White Brotherhood man say he was in the raid when Jefferson and Daniel Morrow were killed for barn-burning? A. No, sir.

Q. Did you ever hear any member of the White Brothe hood say anything in regard to being engaged in the murder Stephens? A. No, sir.

Q. Of Robin Jacobs' in Caswell? A. No, sir, I don't kno him. I never heard tell of the man before.

Q. Did this camp you belonged to ever agree upon an whippings or raids? A. If it ever did I didn't know anythin about it.

Q. What oath did you take when you joined? A. I don recollect the oath, I never saw it but once or twice in my lif

Q. How far is it from Webb's Store to Hillsboro', if yo know? A. About twelve miles, I think.

Q. Did you ever visit any other camp than that which yo commanded? A. I never did, sir.

Q. Were you at a general meeting of the White Brothe hood of the county of Alamance somewhere between Graha and Haw river, presided over by Jacob A. Long? A. I neve was, sir.

Q. Do you know of your own knowledge, or what yo have heard from other chiefs in the county as to the numbe in Alamance county? A. I do not, sir.

Q. Do you know the names of the other chiefs in the county A. I do not.

Q. Do you know of them? A. I have understood that——

Mr. GRAHAM. You need not speak by report, sir.

The CHIEF JUSTICE. Unless you heard it from members of the order.

A. Well, I have heard that Jasper Woods belonged.

Q. That he was a chief? A. Yes, sir.

Q. Do you know where he is now? A. I do not, sir.

Q. (By the Chief Justice.) You have heard that Jacob Long was one? A. Yes, sir, I may have heard that he was.

Q. State whether or not you know Albert Murray is a member of the Kuklux, either by his having told you so, or you having heard it to your knowledge? A. No, sir, I do not.

Q. Did he ever give you a sign? A. No, sir.

Q. Was John Durham chief of a camp? A. I don't know.

Q. Do you know John Durham? A. I know him when I meet him in the road—that is about all.

*Cross-Examination waived.*

JOHN CURTIS, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. Are you a member of the White Brotherhood? A. No, sir.

Q. Did you meet Jerry H. Albright in old Mr. Mebane's lane? A. No, sir, I didn't meet him in the lane.

Q. Well, near the cave? A. I met him about twenty yards from the cave.

Q. State whether or not he spoke to you there with regard to the hanging of Outlaw? A. No, sir, he did not.

Q. [By the Chief Justice.] Just state what time it was. A. He just asked me whether I had heard from the election or not.

Q. [By Mr. Graham.] What time was it—just after the election? A. On Monday after the election.

Q. [By the Chief Justice.] He asked if you had been from the election? A. Yes, sir, I told him I hadn't particularly. Then he went on and told me he supposed the state had been carried conservative, all but Alamance and Caswell counties; and then after that he said that he asked me if I had heard how old man Derry in Greensboro' acted when he heard how Guilford county went. I told him I hadn't. He said he got on his horse and rode around to some of the radical houses there and said, "Master, the yoke is off, the yoke is off."

Q. He was a colored man? A. Yes, sir.

Q. A democrat? A. Yes, sir, that is all he said to me.

Q. Didn't he ask you if you were not one of Robert Mebane's Kuklux? A. He might have done that, but I didn't understand him.

Q. Did you have any talk about the Kuklux? A. No, s
no talk about the Kuklux.

*Cross-Examination.*

By Mr. GRAHAM:

Q. You say that a very few days after the election y
met with Jerry Albright, and he asked you if you heard h
the election went? A. Yes, sir.

Q. You told him you had not? A. Yes, sir.

Q. And he said he understood that the whole state had go
conservative except Alamance and Caswell? A. Yes sir.

Q. And then he asked you if you had heard how an old c
ored man at Greensboro' had behaved when he heard of t
result? A. He did.

Q. He was a conservative? A. Yes, sir.

Q. The colored man voted that ticket? A. That is wh
he told me.

Q. He said that old Derry rode around to the houses of lea
ing radicals and told them, "Master, the yoke is off, the yo
is off?" A. That is the word.

Q. Did Burgen take you up, or Kirk? A. Burgen sent f
me and had me there.

Q. What for? A. I suppose for this word—that I had hea
Albright say.

Q. How did he get the word? Did he tell you? A. We
Burgen didn't tell me himself, but some of the men there to
me.

Q. Some of the Burgen men? A. Yes, sir.

Q. What did they tell you? A. They told me that M
Mebane had reported to these men and had me taken up.

Q. Robert Mebane? A. Yes, sir.

Q. Mebane was a radical in politics? A. Yes, sir.

Q. And if anything passed between you and Albright abou
Mebane and the Kuklux, it was that Albright remarked th
you were one of Mebane's sort? A. Yes, sir, he might hav
mentioned that. I had some boys in my wagon and was goin
along. He might have said that and I not hear him.

Q. You were driving your wagon? A. Yes, sir. He might have said that, but I don't think he did.

Q. Mebane was not one himself? A. I suppose not.

Senator MOORE moved that the court adjourn.

The CHIEF JUSTICE put the question on the motion of Senator Moore, and it was decided, on a division, in the negative. Ayes 13, Noes 20.

WILLIAM J. WARD, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. McCORKLE:

Q. Where do you reside? A. In Alamance county.

Q. What is your age? A. Fifty-three years old the coming May.

Q. Go on and state without my asking any questions, how the Kuklux treated you—all about it and when it was? A. Well, it was last spring—I think it was the first week in April.

Q. April of what year? A. Last year.

Q. In what county? A. The county of Caswell.

Mr. GRAHAM. I thought he said he lived in Caswell.

Q. Go on and state what was done? A. I moved to Alamance since. I lived in Caswell then.

Q. Go on. A. Well, I suppose about midnight I was waked up by a noise at my door. It appeared like the fall of my door. I suppose it waked me. About the time I was getting out of bed I heard some matches striking, and I saw they were disguised men. They seized on to me by my arms and took me out of doors.

Q. How many were there? A. Well, I should think there were about fifteen or twenty. They took me out into the big road, which is about thirty yards, and started west into the road; went some fifty yards and they turned back and went into the other end of the road, took me about a hundred yards from my house, I reckon, and there was a tree standing right over the fence. The panel of the fence was against the tree, and they set me right over in the field and put my arms around

the tree and a man stood over in the road-side and held me around the tree till they whipped me.

Q. Held you arms? A. Yes, sir.

Q. Go on and tell what they did to you? A. They whipped me severely. At times I didn't understand anything. I think I fainted away at times.

Q. How many whipped you? A. Well, sir, I couldn't tell. There were a good many of them.

Q. What did they whip you with? A. Whipped me with hickories.

Q. State if you can form any idea of how many lashes they gave you? A. Well, I could not. I reckon though, from the way I was whipped, bruised and everything, that they must have given me a hundred lashes or more.

Q. State how long you were suffering from the effects of that treatment? A. Well, sir, I didn't get over it for a month or two.

Q. Injured for more than a month or two? A. Yes, sir.

Q. What clothing did you have on when they whipped you? A. I had on my shirt and drawers.

Q. Did they whip you over your shirt? A. No, sir, they tucked my shirt up and put it through the collar here.

Q. Why didn't you tell that without my asking you? A. Well, I didn't think of it.

Q. Then they whipped you on your bare back? A. Yes, sir; then they let me loose from around the tree, put me up astraddle of the fence and held me there, and whipped my legs.

Q. Was that after they had whipped you at the tree? A. Yes, sir. They brought me over into the road again. They stopped me on top of the fence and whipped my legs.

Q. How many licks did they give you there? A. I should think some twenty-five or thirty.

Q. State whether you were badly bruised up? A. Well, I don't think I could have put my three fingers down on a place but what was bruised black.

Q. How far on your person did they extend? A. It was from my shoulders here clean down to my feet.

Q. You stated how many there were, did you? A. Well, I should think there were fifteen or twenty.

Q. State whether they were disguised or not? A. Yes, sir, they were disguised.

Q. Describe their disguises. A. Well, their disguises apprared to be a white gown that came near down to the ground, with a piece up over the head, with horns that looked like they were something red. I think one man was dressed in black.

Q. A black gown? A. Yes, sir.

Q. The rest were all white? A. Yes, sir.

Q. What did the man in black do? A. Well, I think he helped whip me.

Q. You say you can form no idea how many did whip you? A. No, sir, I could not.

Q. How far from Yanceyville did you live when this occurred? A. I think it was called twelve or fourteen miles.

Q. In what direction was it from Alamance or towards Alamance? A. It was in half a mile, three quarters any way.

Q. Did you know any of the parties? A. Yes, sir, I know some of them.

Q. Who are they? A. One was Morris Rainey.

Q. Where does he reside? A. I think he lives right in the edge of Caswell. It is near the line, though I think he lives in Caswell.

Q. Give us the name of the next man. A. George Hurdle.

Q. Where did he reside? A. In Alamance county.

Q. Go on and give all that you know without my asking? A. Jefferson Tapscott.

Q. Where did he live? A. He lived in Alamance.

Q. Did you recognize any others? A. Yes, sir, James Bowling.

Q. Where did he live? A. He lived in Caswell,—and Daniel Weedon, He lived in Alamance,

Q. Any body else? A. No, sir, there was nobody else tha I would be willing to swear to.

Q. Was it D. W. Weedon? A. Yes, sir, I think that is hi name.

Q. How did you know these parties? A. Well, I had bee with them—they had been raised there in the neighborhoo with me, and I had known their voice and their movement.

Q. Were any of these parties indicted? A. No, sir.

Q. Why? A. Well, I was afraid about undertaking to d anything with it.

Q. You were afraid to prosecute? A. Yes, sir.

*Cross-Examination.*

By Mr. MERRIMON:

Q. What did they whip you for? A. Well, they said the whipped me——they said I had shut my wife up in the smok house and whipped her.

Q. Had you done that? A. I had not.

Q. Did you ever whip your wife? A. I hadn't.

Q. Did you ever lay your hand on her in violence? A. struck her one slap one time.

Q. I ask you if you did not try to establish your wife an daughters in a whore-house, and you and your wife quarre about it? A. No, sir.

Q. Do you swear to that? A. Yes, sir.

Q. What did you strike your wife for? A. Well, I don' recollect. There were some words passed between us, and don't recollect——

Mr. SMITH. I object to going into domestic quarrels.

Mr. MERRIMON. I ask it to show the motives.

Q. [By the Chief Justice.] They said they came there t whip you for locking your wife up in the smoke house? A And whipping of her. Me and her wasn't there at home a the time.

Mr. McCORKLE. If the gentleman will permit me would like to ask the witness a question.

Mr. MERRIMON. You can.

*Direct Examination*, [resumed.]

By Mr. McCorkle:

Q. Who was at your house when they whipped you? A. Well, there was no person but my own family.

Q. What constituted your family? A. One little boy about twelve years old, and one of my brothers was there.

Q. Who else? A. No other person.

Q. Was your wife there? Did you have any family? A. Yes, all my family were there.

Q. How large was your family? A. Well, I had three daughters and one son with me and my wife.

Q. How old were your children? A. Well, I have two daughters that were grown and one is twenty-one years old now, shortly.

*Cross-Examination.*

By Mr. Merrimon:

Q. I ask you if your own children didn't have you whipped? A. Well, I cannot tell.

Q. I ask you if you didn't say you believed they had you whipped? A. Well, from the appearance since, I have thought so.

Q. For what? A. I couldn't tell.

Q. Your daughters? A. I should reckon not. Not as I know.

Q. Were they all grown children? A. Which?

Q. Your daughters? A. I had sons older than 'ary one of my daughters. One is married and both have left me.

Q. [By the Chief Justice.] You say you had some reason to think they had you whipped. Do you mean your daughters or your sons? A. Well, my sons.

Q. For what? A. Well, I didn't think so until Colonel Kirk came here and they both left the state.

Q. You say you have never had any difficulty with your wife? A. Well, not a great deal ——

Mr. BOYDEN. We object to anything about that difficulty.

Q. Go on? A. We have had words.

Q. Don't you live apart now? A. Yes, sir, we do.

Q. Haven't your wife and daughters abandoned you? Yes, sir.

Q. Why didn't you tell that at first? A. They never di till after I was whipped.

Q. What did they abandon you for? A. I cannot tell.

Mr. SMITH. We object to that.

The CHIEF JUSTICE. Yes, that is going rather far.

Q. Was it long after you were whipped, or just soon af they were whipped, that they left you? A. Well, sir, I home and came down to my brothers, in Alamance county, when I went back they had gone.

Q. By Mr. GRAHAM. And you went to your brother Alamance, you say? A. Yes, sir.

Q. And when you came they had gone? A. Yes, sir.

Q. You did not follow them? A. No, sir.

The hour of two o'clock and thirty minutes having arriv the court adjourned till to-morrow at eleven o'clock.

## THIRTY-THIRD DAY.

SENATE CHAMBER, March 9, 1871.

The COURT met at eleven o'clock, pursuant to adjournment, Hon. Richmond M. Pearson, Chief Justice of the Supreme Court, in the chair.

The proceedings were opened by proclamation made in due form by the doorkeeper.

The CLERK proceeded to call the roll of senators when the following gentlemen were found to be present:

Messrs. Adams, Albright, Allen, Battle, Beasley, Bellamy, Brogden, Brown, Cook, Council, Crowell, Currie, Dargan, Edwards, Eppes, Flemming, Flythe, Gilmer, Graham, of Alamance, Graham, of Orange, Hawkins, Hyman, King, Latham, Ledbetter, Lehman, Linney, Love, Mauney, McClammy, McCotter, Merrimon, Morehead, Murphy, Olds, Robbins, of Davidson, Robbins, of Rowan, Skinner, Speed, Troy, Waddell, Warren, Whiteside and Worth—44.

Senator LINNEY moved that the reading of the journal of the proceedings of yesterday be dispensed with.

The CHIEF JUSTICE put the question on the motion of Senator Linney and it was decided in the affirmative.

WILLIAM R. ALBRIGHT, *a witness re-called on behalf of the respondent, testified:*

By Mr. McCORKLE:

Q. State your age, residence and occupation? A. I live in Graham, Alamance county, am forty-two years of age and am a farmer.

Q. How long have you lived in Graham? A. I have lived in Graham since the surrender, with the exception of about eighteen months.

Q. Will you go on and state whether you know of your own knowledge of any outrages that have been committed upon any

persons and if not of your own knowledge, will you describe the outrages, evidences of which you have seen committed, their names, &c.? A. I have seen none. I saw Joe Harvey's back, who had been scourged. I saw Caswell Holt, who had been shot and I saw George Rippey's back.

Q. Will you state what was the condition of Harvey's back? A. He was badly whipped.

Q. How long did you see him after he had been whipped. State what was the character of the wounds—whether they were fresh or otherwise? A. They were fresh. I saw him a few days after he was whipped.

Q. State the character of it, whether it was a light scourging or otherwise? A. Well, it appeared to have been done by hickories and his back was considerably cut—very much lacerated.

By the CHIEF JUSTICE:

Q. You state he was badly whipped? A. Badly whipped, sir.

Q. I suppose that is the word you use, "badly"? A. Yes, sir, he was badly whipped.

Q. (By Mr. McCorkle.) Just describe Caswell Holt's condition? A. Caswell Holt was shot in two or three places—very badly shot.

Q. (By the Chief Justice.) Did it seem to be with one gun or two or three guns? A. I could not tell, I did not examine him sufficiently. I saw his main wound and where he was shot in the arm.

Q. With ball or shot? A. With ball and small shot.

Q. Ball and small shot both? A. I think so.

By Mr. McCORKLE [resuming:]

Q. State if you know how long he was confined from the effects of this wound? A. I don't know the exact time—he was confined for some time—three months probably or more, I am not positive about the time.

Q. You spoke also of having seen Rippey's person, after he

had been whipped—please describe it? A. He was also very badly whipped.

Q. How long was it from the time he was whipped until you saw him? A. I think it was on the next day. Any how it was shortly afterwards.

Q. [By Mr. Graham.] Which Rippey is this? Was he a white man? A. George Rippey, a colored man.

Mr. McCORKLE. It is the old man that Gen. John Holt testified to. Rippey himself was never here, he died shortly afterward.

The WITNESS. And I saw Outlaw hanging in the streets of Graham near the court house—that is all I saw.

Q. Will you state whether you ever saw any disguised persons in Alamance county? A. I never did, sir.

Q. Will you go on and state what was the feeling during the year 1869, and up to the 7th of March, 1870, between the whites and the blacks? A. Well, politically it was generally very bitter.

Q. A very bitter feeling between them? A. Generally, with some exceptions.

Q. Are you a magistrate in the county? A. I am.

Q. How long have you been a magistrate? A. I have been a magistrate ever since the spring of 1869.

Q. Will you state whether any prosecutions have been instituted against any of the perpetrators of the outrages upon the persons you have just spoken of? A. There have been several complaints made before 'Squire Hardin. I have endeavored to investigate two cases.

Q. State what cases? A. Jo. Harvey's case, and that of Ringstaff.

Q. State the result of the investigations? A. Well, we bound them over to the court.

Q. [By the Chief Justice.] Go on and tell what become of that? A. Well, I don't think there was a true bill found. I think it stopped there.

Q. Never any bill in either case? A. I think not, that i my recollection.

Q. State whether there were ever any bills in the case Caswell Holt and Rippey? A. Not to my knowledge.

Q. You never heard of any? A. No, sir, I never heard any.

Q. I will ask you whether it was not a matter of gener notoriety that many outrages had been perpetrated in th county?

Mr. GRAHAM. I think the question is rather leading.

Mr. McCORKLE. I did not intend that it should be.

A. A great many complaints had been made to me as magi trate after I had investigated those cases that failed to be pun ished. We ceased then to investigate. I ceased to take u any more cases.

Q. State whether you ceased to investigate cases? A. brought down the odium of the Kuklux organization on m and jeopardized my life and none of those parties were con victed; that is my reason.

Q. You say the reason you ceased to investigate the case was that your life was threatened? A. Yes, sir.

Q. By members of this Kuklux organization?

Mr. Manager SPARROW. He did not say threatened he said it jeopardized his life—he didn't say that anybod threatened.

Mr. McCORKLE. Well, it is the same thing.

Q. Then you ceased through fear? A. Yes, sir.

Q. And for the further reason that the courts did not admin ister justice in any of the cases?

Mr. GRAHAM. I understand the witness to say that h did not know about the bills being found, and that is all h said.

Mr. McCORKLE. He said he heard of none.

Mr. GRAHAM. He said he had not heard of any bills being found, but did not say that the courts did not administe justice.

Q. Do you say no results followed? A. I mean that nobody was convicted.

Q. Will you state how it was that a great many of the parties were not able to identify the perpetrators of the crime? A. Well, they were all said to be disguised.

Q. And in many instances they could not identify the parties? A. They could not identify the parties.

Q. Will you state whether you know if any of the victims of these outrages were deterred from informing on the parties?

Mr. GRAHAM. I object to the hearsays between him and them.

Mr. McCORKLE. Those that come to his knowledge I mean.

Mr. GRAHAM. What is the direct question?

Mr. McCORKLE. The question is this—does he know, of his own knowledge, parties were deterred from entering prosecutions against the perpetrators of crimes.

Mr. GRAHAM. That I suppose is only a matter of hearsay.

Mr. McCORKLE. If he heard it directly from the parties?

Mr. GRAHAM. I submit the parties themselves would be the persons to testify and not those who heard it from them.

The CHIEF JUSTICE. The witness is the magistrate to whom they came and told it.

Mr. GRAHAM. They were coming to him and telling him——

Mr. BOYDEN. The question is not debatable under the rule established yesterday.

The CHIEF JUSTICE. The counsel is not debating he is explaining.

By the CHIEF JUSTICE.

Q. You, as a justice of the peace, can state whether persons came to you and after talking with you about it told you they would drop it for fear of the consequences. A. Well, I don't know as I can say that, but I have advised them on different occasions to drop it.

Q. You say that persons would come to you and make their

complaints of having been maltreated? A. Yes, sir.

Q. And you as a magistrate advised them to drop it? A. I have, sir.

The CHIEF JUSTICE. I think the question of the counsel for the respondent is competent.

By Mr. McCorkle, [resuming:]

Q. State whether you advised them to drop it?

Mr. GRAHAM. I object to that.

The CHIEF JUSTICE. That is a matter of inference.

Q. You heard as a matter of public authority that a great many outrages had been committed and that the parties had not been punished for it. I ask you if you had any conference with the governor as to the condition of things in Alamance county and what advice you gave him? A. I did.

Q. State when you first had a conference with him? A. Well, I am not able to recollect dates. I had two or three or probably four conferences with Governor Holden during 1869 in regard to this matter.

Q. State whether you informed him of the number of outrages and so on? A. Informed him to the best of my knowledge and information of the state of the country there.

By the Chief Justice:

Q. Just tell what you said to him and what he said to you? A. Well, I told him of the state of the country, as I understood it, and I solicited the sending of troops there.

Q. Just state what you said to him? A. That was the sum and substance of it.

By Mr. McCorkle, [resuming:]

Q. Go on and state how you described the outrages that were committed? A. That there were a great many outrages being committed in the county, and that we were afraid of our lives, and that we wanted protection of the government.

Q. Did you enumerate the outrages, giving the names? A. I think I did at the time—that is my recollection.

The CHIEF JUSTICE. It is well to avoid putting leading

questions. Just ask him what he said and what the governor said.

Mr. McCORKLE. I have been trying to get at that.

The WITNESS. Well, the governor promised to send us some United States troops.

Q. That is the first interview you say you had with him—that was in 1867. Did you have any other interviews with him? A. I had three or four interviews with him at different times, with reference to protection.

Q. State what you said to him? A. I solicited him to send us troops there to protect the law-abiding people of the county—to keep peace and order in the county of Alamance for the protection of the people.

Q. Will you be good enough to tell us what yon said to him about the outrages? A. I told him that there were a great many outrages being committed, and a great many threats, and that we were afraid of our lives.

Q. You advised him to send the military? A. I begged him to send us United States troops—a company of them if he could.

Q. Did you state to him anything about the ability of the civil authorities there to give protection? A. Yes, sir.

Q. What did you say? A. I told him that I did not think that it was sufficient to protect the people in their lives and property.

Q. That being the case you asked for troops? A. Yes, sir.

The CHIEF JUSTICE. It is not proper to prompt the witness in that way. Just let him go on and tell what passed.

Q. Just state it all without my calling your attention to it—everything you said to the governor? A. I could not tell you everything. Probably I said to the governor—I cannot recollect to save my life, and probably if I could repeat it word for word I could not tell it in a half day. I don't know all that has passed between us.

Q. [By the Chief Justice.] State the leading points? A.

That is what I am trying to do, if I know how. I solicit troops there to protect the lives and property o people of Alamance county.

Q. [By Mr. Boyden.] We want you to tell all you s him? A. I cannot possibly.

Q. About the condition of the county? A. I told him it was bad—a desperate condition.

Q. When did you have the last interview with him, b or after Outlaw was hung? A. On the subject do you m

Q. Yes, sir, the subject of the condition of the county? I am not positive but I think I came to see him after Ou was hung—that is my recollection—I stated the terror tha outrages had caused in our county.

Q. Go on and state how you told him there was terr what created the terror? A. They were whipping, han and threatening the lives of prominent republicans in county, myself with others.

Q. That you think was after the murder of Outlaw? Yes, sir.

Q. You say that you told him that the civil authorities w not able to protect life and property? A. I did, sir.

Q. State whether you made the same statement to hin every occasion or not? A. Of course. Before the hangin Wyatt, I did not think that our people had become so despe as to take life ——

Mr. GRAHAM. We don't want your thoughts, only w occurred.

The WITNESS. You want me to state what I said to G ernor Holden?

Mr. McCORKLE. Yes, sir. You have the right to s every thing you said to Governor Holden.

Mr. GRAHAM. Not what you thought.

A. We had no fears of assassination until after Wyatt w hung, although we had heard a good many threats; after t I was afraid of myself and of a great many other persons bei assassinated.

Q. You made that statement to the governor did you? A. I did, sir.

Q. Will you tell whether you are a large property holder in the county or not? A. Well, I own a good deal of land, two thousand acres and more.

Q. Were you acquainted with the character of Wyatt Outlaw? A. I was.

Q. Will you state what it was? A. It was as good as that of any negro—any colored man in Alamance county.

Q. Will you state whether you were at a meeting where Outlaw was and a good many others and if Outlaw did not advise against extreme measures.

Mr. GRAHAM. I object to declarations of that kind.

The CHIEF JUSTICE. The presiding officer thinks they are revelant.

Mr. McCORKLE. I ask it for the purpose of showing Outlaw's peaceful demeanor.

The CHIEF JUSTICE. That has been proved by other persons.

Q. I will ask you what the demeanor of Outlaw was?

Mr. GRAHAM. I object to that. They have proved his general character and that is enough.

The CHIEF JUSTICE. It has been proved to be good both towards white and black.

Q. [By the Chief Justice.] Are you the same man that the Kuklux groaned and made noises against? A. I am the same man.

Q. Was that before Outlaw was hung or after? A. It was the same night.

Mr. McCORKLE. Does your honor hold it incompetent for me to ask the witness whether Outlaw favored or countenanced outrages on the part of the colored people?

The CHIEF JUSTICE. Yes.

Mr. McCORKLE. Whether he did not try to put them down?

The CHIEF JUSTICE. That would involve proof of some express instance.

Q. Did you hear the groaning that night? A. No, sir, I did not.

*Cross-Examination.*

By Mr. GRAHAM:

Q. You say you have been living in Graham since the surrender except about eighteen months? A. Yes, sir.

Q. Where did you live then? A. I was part of the time in the asylum and the balance of the time at the springs and in New York and travelling for my health.

Q. What asylum? A. There at Raleigh.

Q. The lunatic asylum? A. Yes, sir.

Q. You were treated as a penitent there? A. I was.

Q. You speak of the case of Harvey, you say that Harvey made complaint and you bound parties over? A. Yes, sir, I was one of the parties who bound them over. There were several at the same time.

Q. You say there was no true bill found? A. I think not, I said that to my recollection was there was not.

Q. You don't know about that? A. I don't know that there was. I think there was not—that is my impression.

Q. Don't you know that Harvey himself admitted that those men were not guilty—that he was mistaken about those men? A. No, sir, I don't know that.

Q. Didn't you hear him swear that here? A. No, sir, I did not hear his evidence.

Q. Who were the men you bound over? A. Caffey, John Rich Ireland and Calvin Rooney—those are three of the men, I have forgotten the others.

Q. Don't you know that Harvey himself admitted that he was mistaken about them? A. No, I did not know that—I did not hear his testimony.

Q. In relation to Caswell Holt, you don't know whether any bill was found or not? A. I think there was not.

Q. Do you know that any was sent? A. No, sir, I do not.

Q. You don't know of any case in which a bill was sent that it was not found to be a true bill? A. I don't know whether I understand your question or not.

Q. You don't know of any case in which a bill was sent to the grand jury that in which there was not found a true bill—any of these cases?

The CHIEF JUSTICE. Whether there was any bill found that you knew of? A. No special bill.

Q. Well, any general bill? A. I don't know of any general bill.

Q. You don't know of any case in which a bill was sent against men for outrages of this kind, but what it was found to be a true bill. What answer do you make to that? A. I don't know of any true bills that were found in any case.

Q. And you don't know of any cases where there were found true bills? A. I do not.

Q. You know nothing about the action of the grand jury at all? A. I know that nobody was convicted.

Q. How do you know that? A. Only those negroes there. There was nobody punished. I would have heard of it.

Q. You would only know upon hearsay. You did not examine the records of the court did you? A. No, sir.

Q. Were there any trials in court upon any case of the kind? A. Yes, sir, there were some negroes tried.

Q. We have heard of them before? A. None others.

Q. I am enquiring about white men. There were none others? A. Not that I recollect of.

Q. So you don't know of any such proceedings whether they took place or not? A. I don't recollect of any.

Q. You say you were a magistrate of the county? A. Yes, sir.

Q. Do you hold a commission still? A. Yes, sir.

Q. Do you tell this court that you hold your commission as a justice and are afraid to do your duty? A. I do sir—I was at that time.

Q. Why didn't you resign and let some man take it who would? A. I hoped that these troubles would pass off.

Q. How were they to pass off if the magistrates of the county did not do their duty? A. I tried to do my duty as well as I could and knew how.

Q. You say you were afraid to do it? A. I was.

Q. Therefore you did not make any trial. The only cases you acted upon were the cases of Joe Harvey and Ringstaff? A. I think they were all.

Q. Ringstaff made a complaint did he? A. Yes, sir.

Q. Was Ringstaff there when the court sat to which you returned the papers? A. When he was before the magistrate?

Q. No. You returned the papers to the court. Did Ringstaff attend, did you bind him over as a witness? A. Yes, sir.

Q. Did he attend at court and give any evidence about it? A. I am not prepared to say, I don't know.

Q. That is the same man who was examined the other day? A. No, sir, it was another Ringstaff. He left the county.

Q. Did he leave the county before the court sat to which you returned the papers? A. I don't know whether he did or did not.

Q. [By Mr. Smith.] What is Ringstaff's first name? A. I don't recollect his given name.

Mr. GRAHAM. This one was whipped for adultery.

Q. What did that man say he was whipped for—the one that was before you? A. They charged him with being whipped for stealing bacon.

Mr. SMITH. I suppose that is not admissible on the ground on which the other was ruled out.

The CHIEF JUSTICE. The presiding officer does not think it is competent.

Q. You say that Ringstaff was not at the court and is not now in the county? A. He is not in the county now, and I don't think he was at the court. That is my impression.

Q. He attempted no prosecution at the court that you know of? A. Not that I know of.

Q. Are you not upon very bad terms with a great many of your neighbors? A. I don't know that I am personally, I am with some.

Q. You say you considered your life unsafe and therefore you called for troops? A. I did.

Q. Did you get a contract to supply those troops with beef on the same errand you made here at the time you asked for troops to be sent? A. No, sir.

Q. Didn't you get a contract to supply men with beef? A. No, sir, not until after they came there.

Q. You did have a contract after they came here? A. I got the contract after they came there. They gave me a contract.

Mr. SMITH. We object to that, sir.

Mr. GRAHAM. We think it is competent.

The CHIEF JUSTICE. The presiding officer thinks it is competent on the cross-examination. If he got it at the very time he requested the troops to be sent it would have counted more than if got afterwards. The weight is altogether a matter with the court, but the evidence is clearly competent.

Q. You had the beef contract though, for these soldiers? A. Yes, sir, I did not have the beef contract when they first came there. They gave it to me afterwards.

Q. What other contracts did you have? A. I had a contract to furnish wood.

Q. To furnish the soldiers with wood, also? A. Yes, sir.

Q. Any other contract in relation to army supplies? A. None at all, sir.

Q. Do you mean the United States soldiers? A. Yes, sir.

Q. The ones that came there after Outlaw had been executed? A. The second company that came there—not the first company.

Q. Didn't you bring state troops there before those? A. No, sir.

Q. Wasn't a militia force sent out there before that? A. In the spring of 1869——

Q. Did you have them brought there? A. No, sir.

Q. Bosher's troops—didn't you apply for them? A. No, sir, I think not—that is my impression.

Q. Did not you know of them being applied for, and did you not approve it? A. I did.

Q. In the spring of 1869? A. Yes, sir.

Q. Did you have arms brought there? A. No, sir.

Q. No arms were sent to you by the governor? A. No, sir. If you will allow me I can explain that.

Q. I ask you if arms did not fall into your possession sent there by the governor, and whether you did not distribute them out through the country? A. There were twenty guns left with me when Captain Bosher left.

Q. What did you do with them?

Mr. McCORKLE [to the witness]. You have a right to explain all about it.

Q. What did you do with the guns? A. I let Jim McAdams have two, I let Seymour Holt have four, and I let two colored men have a gun each. That is all I let out, and the balance, when Colonel Kirk came there, I turned over to him. I got them in and turned them all over to him.

Q. You distributed two to one man and four to another? A. I did, and two, I think, to two colored men—that is all I ever did distribute.

Q. What were you distributing public arms for? Were they presents to those men? A. No, sir, I loaned them to them. They said they were afraid of their lives, and they asked me if I could not let them have a gun to protect themselves.

Q. One man wanted four for that purpose, did he? A. Yes, sir.

Q. Who was he? A. Seymour Holt. I think it was four—two or four.

Q. He wanted a magazine of four guns. He is a white man? A. Yes, sir.

Q. Another man you say you let have two? A. Yes, sir.

Q. And two colored men you let have a gun apiece? A. Yes, sir, that is all I think I let out.

Q. These were public arms which Bosher left there when he left? A. Yes, sir.

Q. Did he leave them there for you to dispose of at your discretion? A. Yes, sir.

Q. You were then a superintendent for the purpose of distributing arms? A. I was mayor of the town.

Q. That did not authorize you to distribute arms to the men in that county, did it? A. I loaned them to them, sir.

Q. Well, those men did not live in the town, did they? A. No, sir.

Q. The mayor of the town had nothing to do with the protection of the county. How long did Bosher's force remain there? A. Well, I don't recollect exactly how long, it was not very long.

Q. That was in the spring of 1868? A. Yes, sir.

Q. Did you arm a parcel of colored men as a guard for the city of which you were mayor? A. The commissioners of the town of Graham passed an ordinance that I should call out a guard of five, and I armed four colored men and one white man as that guard.

Q. You took four out of the five as colored men? A. Yes, sir.

Q. Who was the white man? A. His name is—it has just slipped my mind.

Q. Did you have that guard before or after Bosher came there? A. That was before Bosher came there—no—yes, that was before Bosher came there, I think.

Q. Then the first military operations of the county were your armed guard of four colored men and one white man in the city of Graham? A. They were a police—and armed police.

Q. Did not you put those colored men on guard to offend the white men? A. No, sir, I did not.

Q. Were they the only men you could find fit for guard

there? A. They were the men that I was instructed to p on by the commissioners.

Q. Did the commissioners—the majority of them—inte it to offend the white people?

Mr. SMITH. We object to that.

The WITNESS. No, sir, I think not

Q. But you had such a guard?

The CHIEF JUSTICE. You can prove the fact.

Q. You had that guurd there before Bosher came? Yes, sir, I think before Bosher came.

Q. [By the Chief Justice.] Was Bosher commandin company of United States troops or was it militia—I do understand? A. It was just after the first raid in Graha

Mr. GRAHAM. They were a company gotten up here.

Mr. McCORKLE. I suppose it would be more proper the witness than for the counsel to testify in regard to th

Mr. GRAHAM. I was simply answering an inquiry ma in a conversational way by the chief justice.

The CHIEF JUSTICE. The presiding officer mer desired to know whether Bosher's company was a Uni States force or militia, or what it was.

Mr. GRAHAM. We understand that they were not United States troops but a force raised I don't know how.

The CHIEF JUSTICE. But this guard of four colo men and one white man were raised in the town of Graha

Mr. GRAHAM. Yes, sir.

The CHIEF JUSTICE. Appointed by commissioners.

Mr. GRAHAM. Selected by the mayor of the town.

Mr. SMITH. The witness said that they were selected the commissioners.

The CHIEF JUSTICE. Selected by the commissioners, the presiding officer understands and appointed by him.

Mr. McCORKLE. He said they were designated by commissioners.

The WITNESS. Yes, sir, the commissioners directed th very men to be appointed.

By Mr. GRAHAM, [resuming:]

Q. They selected them as the guard? A. They selected them as the guard, sir.

Q. How long did you have them parading the streets? A. I had them one week—nights only.

Q. Did Bosher come and supercede them? A. Yes, sir.

Q. Where did Bosher come from? A. I understood he came from Raleigh.

Mr. SMITH. We object to the witness stating what he understood.

The CHIEF JUSTICE. The witness has a right to state it if they reported to him where understood he they came from.

Q. They were not United States troops but troops raised in Raleigh? A. They were not United States troops. I don't know where they were raised.

Q. Did Bosher say he brought those troops from Raleigh by the direction of the governor?

Mr. SMITH. Does the presiding officer think that admissible?

The CHIEF JUSTICE. Yes, if Bosher so reported to the mayor.

Mr. SMITH. There is no evidence to establish a connection between the governor and this man, Bosher.

Mr. GRAHAM. The witness says that somebody applied to the governor for them and that they went over in consequence of that application, and came with his approval.

The CHIEF JUSTICE. The presiding officer thinks the witness can state what Bosher said to him, if he reported to him as the mayor of Graham.

Q. Bosher told you that he was sent there by the governor? A. Bosher never reported to me.

Q. What did he say when he came? A. Well I can't recollect all he said.

Q. Did he not say where his company came from? A. Yes, sir.

Q. Came by order of the governor?

Mr. SMITH. We object to that. The chief justic confined the examination on that point to Bosher's rep officially.

The CHIEF JUSTICE. The presiding officer think competent if Bosher came there and reported how he

Q. Did not he tell you that he came there by comm the governor? A. I don't think that Bosher told me th

Q. Did not you know that they came that way? A. derstood that they did.

Mr. SMITH. We object to that.

The WITNESS. I don't think Bosher said so.

Q. Did you not understand from the governor in you versation with him sometime or the other, before or Did he never talk with you about Bosher being there? think he did, sir.

Q. You might as well come out with it then straight I have no concealments to make.

Q. You seem to have some reserve? A. None at all,

Q. You know then that Bosher came there by order governor? A. I understood it so, sir.

Mr. SMITH. We object to it unless the statement which witness speaks came from the governor.

Mr. GRAHAM. The witness says he held conver with the governor, and that the governor mentioned th had sent them there.

Mr. SMITH. Does the chief justice think that comp

The CHIEF JUSTICE. Yes, that comes under the

Q. How long did Bosher's troops remain? A. I they remained there probably about thirty days. I a positive as to that, twenty or thirty days, I do not know

Q. What time in the spring was it that they were A. It was March or April, just after the first raid was m Graham.

Q. March or April, 1869? A. Yes, sir.

Q. You mean after the time that the disguised men had been the first time? A. Yes, sir.

Q. They came there with your approbation—you conferred with the person who asked them to be sent? A. Yes, sir, I think so.

Q. Did you ask the governor to send militia or United States troops? A. Well, I don't think I ever asked him to send; I have no recollection of ever having a conversation with Governor Holden with regard to Kirk's military movement until after it was made.

Q. That is not what I asked you? A. I asked him to send United States troops.

Q. That was after Outlaw had been hung? A. Yes, sir.

Q. You did not apply to him to send Kirk's troops? A. I don't think I did. My recollection is that I had no knowledge that that movement was on foot.

Q. You did not know it until Kirk came there? A. Yes, sir, I knew it before he came there.

Q. How long was it on foot before he got there? A. I don't know how long.

Q. You did not ask him? A. No, sir.

Q. You don't know any citizens of the county who did? A. No, sir.

Q. If I understand you on that subject, you neither asked that Kirk's troops should be sent there, nor did you know of any citizens of the county who did. You answer that in the negative? A. I do not.

Q. Well, just answer it, Mr. Albright? A. Well, give me a little time. I want to reflect.

Q. Well, if you are reflecting, of course I did not want to interrupt you. Are you a member of the Union League? A. I joined the Union League in 1867, in the spring, but I have had no connection with the League since.

Q. You just joined and ceased your connection? A. I was taken down with an affliction in a few weeks after I joined it.

I was eighteen months afflicted and I have not renewed
connection with the League since.

Q. You mean you have attended no meetings since?
Yes, sir, I attended—I was called upon by the colored peo
to meet them once for consultation.

Q. It was a League meeting? A. Yes, sir.

Q. You did not consider yourself a member then? A. I
sir.

Q. Did you ever belong to the "Heroes of America?"

Mr. SMITH. The gentleman has asked the witness ab
being present at a League meeting and desires that he sho
state what occurred there.

Mr. GRAHAM. I suppose the gentleman can call that
in his cross-examination just as well if he wants it. I do
know what it is.

The CHIEF JUSTICE. You have a right to call it out
the reply.

Q. You have attended one meeting since? A. Two me
ings since my affliction—all that I have ever known in t
county of Alamance.

Q. What obligation did you take when you become a me
ber of the League? A. Well, I am not able to give you t
obligation correctly, my affliction was then coming on me.

Q. These two meetings that you attended since your affl
tion was over—what were you called upon to attend for?
Well, sir, it was just after the raid—the first raid the Kukl
made on the town of Graham. The negroes there were ve
excited, and Outlaw and some other negroes asked me
counsel with them with regard to what course to pursue.
did meet them and advised them to depend entirely upon t
civil law of the country, to stay at home, and to behave the
selves if possible better than they ever did, and that was whi
there was some difference there. Some of the negroes want
to commit outrages. Outlaw and others opposed it strenuousl
and after the second meeting it was finally agreed—they
agreed that they would endeavor to behave themselves an

not retaliate on any one. That was the object of those two meetings.

By Mr. SMITH:

Q. What Outlaw was that? A. Wyatt Outlaw.

Q. That was a League meeting? A. Well, I didn't understand it to be a League meeting.

Q. Didn't you say so a while ago? A. After I got there then it developed itself to me that it was a League meeting.

Q. What retaliation did they propose to make? A. Well, they proposed if the persecution upon them was not stopped they would retaliate by burning their property.

Q. And the League was called together to consult whether that species of retaliation should not be resorted to? A. Yes, sir, and it was agreed that it should not.

Q. Hadn't there been considerable burning before that? A. not in my county that I knew of.

Q. Didn't you know of Morrow's barn being burned in your county before that? A. I thought Morrow's barn was in Orange. I always understood it was in Orange.

Q. Was not one of those three barns burned then in Alamance? A. I don't know about that.

Q. You say you don't know that there had been any burnings up to that time there? A. I don't know that there had. I had been out of the county then, and had just got back in December, 1868. I don't know of any.

Q. Who were those men that insisted on those burning operations? A. Do you want me to answer that question? I might implicate somebody. I have no objection if it is a proper question.

The CHIEF JUSTICE. Yes, it is a proper question.

A. A negro by the name of Aleck Ruffin was one of those men.

Q. The same that was the soldier of Kirk? A. Yes, sir. I think this negro in the penitentiary was another.

Q. Allen Paisley? A. Yes, sir.

Q. Allen was a preacher wasn't he? A. Yes, sir.

Q. Anybody else? A. I think there were two or
others, but not prominent. I think they were the pro
men.

Q. Aleck Ruffin and Allen Paisley were for that sort
rations? A. Yes, sir.

Q. And you counselled against it? A. Yes, sir.

Q. And it was agreed that that should not be resor
A. Yes, sir.

Q. You say you didn't know of Kirk's movement
came there, or a very short time before—were you n
active in having persons arrested by him? A. No, sir.

Q. You didn't furnish the names of persons to be ar
A. I gave him the names of some different men th
charged with committing those crimes—Kuklux crimes.

Q. Were you brigadier general about that time? A
sir.

Q. Where was your brigade encamped? A. Had no

Q. What! a general without a brigade? A. Yes, sir

Q. What were the bounds of your commands? A.
the whole district.

Q. What district? A. I don't know how many c
that covers. I am still a brigadier general.

Q. But you don't know your command? A. I don'
them all, sir—a good large command.

Q. You don't know what the bounds were? A. No,

Q. Whether it extends out of Alamance? A. Oh!
extends out over five or six counties. I don't know how

Q. Who appointed you? A. Governor Holden.

Q. Was the brigade ever organized or received? A.

Q. Have you got your regimentals? A. No, sir.

Q. Is there a company of the brigade in existence? A
that I know of. They have never been organized.

Q. Did you get any pay? A. Not a cent.

Q. What were you given such a sinecure as this for?-
were you appointed a brigadier for? A. Mr. Holden app

me. He got up a military court, and he appointed me to sit upon that court.

Q. What court? A. It was a military court to try the Ku-klux.

Q. Where? A. It was to sit in Yanceyville, that was the understanding I had.

Q. You were a brigadier for judicial purposes? A. Yes, sir, I suppose for that purpose.

Mr. McCORKLE. Just speak of your own knowledge. You must not give any supposition.

Mr. GRAHAM. He says the governor appointed him for that purpose.

The WITNESS. I suppose it was.

Q. Didn't you tell your brother Henry A. Albright that you were a brigadier with $380 a month?

Mr. McCORKLE. State the time and place.

Q. About the 29th of July, in the county of Alamance, didn't you tell Henry Albright that you were a brigadier with $380 a month? A. Well if I did it was in a joke. I did it in a joke.

Q. You were only joking? A. Only joking.

Q. Did you tell him in the same conversation that you had had Patten hung? A. No, sir, I did not.

Q. Never told him that? A. No, sir, I didn't know Patten was hung until after it was all over.

Q. This was the 29th July—hadn't he been hung then? A. I don't know whether he had or not.

Q. Didn't you say at that time that you had had it done? A. No, sir, I did not.

Q. Didn't you say in the presence of John R. Stockard, in the county of Alamance, while Kirk was there, that there were from 75 to 100 men in the county of Alamance that were to be put to death by hanging—I refer to Kuklux? A. No, sir, I did not.

Q. You didn't say that to John R. Stockard? A. I did not.

Q. Did you get John R. Stockard to sign a paper withdraw-

ing from this organization? A. No, sir, he signed it vol tarily.

Q. At the time of this signing it didn't you tell him t there were from 75 to 100 men in the county of Alamance w were to be shot or hung? A. No, sir, I did not tell him so

Q. Didn't you, as brigadier-general, give him a safeguard which he was to be exempted from being one of the hang men? A. No, sir.

Mr. SMITH. We object to that on the ground that if he it is a written order.

The CHIEF JUSTICE. The presiding officer did not h the question distinctly.

Mr. GRAHAM. I ask him whether he did not give a sa guard to Stockard—I think that is what the military call it or protection, signing it as brigadier general, by which Stoc ard was to be protected from further molestation in regard his connection with the organization.

The CHIEF JUSTICE. That is a competent question.

Mr. SMITH. The objection is that the paper ought to shown him.

Mr. GRAHAM. We expect to show that the paper h been destroyed.

Mr. SMITH. I had rather that would be done first.

The CHIEF JUSTICE. You may ask him the questio

Q. Did you not give to John R. Stockard a paper which t military call a safeguard, and sign it as brigadier-general, statin that he should not be liable to further arrest, or something that nature? A. I gave him a paper as I understood it.

Q. Just tell what the paper was? A. Well, I am going o As I recollect, that was to prevent his further arrest by Colon Kirk's men. That is the paper I gave him.

Q. And didn't you tell him at the time you gave that to hi that it would exempt him from being one of those men th were liable to be shot? A. No, sir, I did not.

Q. And you deny that you told him that there were 75 t

100 men, or some number in Alamance county who were to be put to death? A. I do, most emphatically.

Q. Didn't you tell Henry R. Albright so? A. No, sir.

Q. Was the paper that you gave to Stockard signed by you in your military character? A. Yes, sir.

Q. By which order you exempted him from further arrest? A. It was my intention, but it did no good, because they didn't respect my authority. They re-arrested him afterwards.

Q. We will come to that presently. But you, as brigadier-general, gave him a paper exemptiug him from further arrest? A. Will you allow me to explain.

Q. You can say whether you did or not?

The CHIEF JUSTICE. Yes, you have a right to explain.

A. Well, they commenced arresting gentlemen. Some of them that were arrested came to me to use my influence to get them released, and I came down to see Governor Holden, and he told me——

Q. It is the conversation between you and the prisoners that I wish? A. I am coming to that.

The CHIEF JUSTICE. He can state why he gave that paper you refer to.

A. He told me that persons that belonged to the organization had come up, and desired to disconnect themselves with it, and that if they made those affidavits I could give them a certificate of that fact, and Kirk and Burgen would not molest them any more.

Q. If they made affidavits? A. Yes, sir, if they confessed that they belonged to the Kuklux organization, and wanted to dissolve their connection with the organization.

Q. Then you were an agent—you say to distribute that kind of papers among them if they complied with those terms? A. If they desired to do it—not to enforce it upon anybody. They were to do it voluntarily.

Q. You were to sign those papers as brigadier-general—you signed the paper you gave Stockard as brigadier-general did you? A. I did that on my own responsibility.

Q. You signed it that way? A. I did, sir.

Q. Here are a number of military papers I would li have you examine them and see whether you signed th not. Look at that one [handing the witness a paper si Wm. R. Albright, and dated July 29th, 1870]? A. Ye I signed that.

Q. Look at this one [handing the witness a second of the same date, signed Wm. R. Albright and addres Lieut. Col. Burgen.] Did you sign that? A. Yes, sir.

Q. Look at this [handing a paper dated August 5th signed by Wm. R. Albright.] Did you sign that? A.

Q. Look at this paper [handing the witness another p Did you sign that? A. I did not.

Q. Look at the back of it—did you write what is back? A. No, sir.

Q. Do you know who did it? A. I don't. Let me ex it further, perhaps I may be able to prove the handw [The witness takes the paper and examines it.]

Q. Did you ever see it before it was sent? A. No, never saw it before in my life.

Q. You never saw it before this time? A. No, sir.

[The paper was marked by the stenographer for i fication.]

The CHIEF JUSTICE. The respondent's counsel h right to look at the paper which you have just now pro to the witness if he denies having written it.

Mr. GRAHAM. The paper is not offered in evidenc

[The counsel for the managers gave the paper to the co for the respondent to examine.]

Q. During the time that Kirk's men were there, whe spoke to John R. Stockard, did you not say, "We hav evidence and we want to hang the last of those scoundrel killed Outlaw."

Mr, McCORKLE. Will you give us the time and pla

Mr. GRAHAM. I am speaking of the time to whic have already alluded.

Q. Did you not say to John R. Stockard, or in his presence at that time, "We have got the evidence and we want to hang the last d—d scoundrel of them?" A. No, sir.

Q. Did you not tell him that you would have evidence or that you would hang the last d—d scoundrel? A. No, sir, I did not tell him that.

Q. What did you tell him? A. I told him that I hoped that we would get evidence and hang the men that hung Wyatt Outlaw.

Q. Is that what you said to Stockard? A. That is what I said in substance.

Q. You did not say, "We have got the evidence to kill the last d——d scoundrel?" A. I don't think I did.

Q. Will you swear that you did not? A. My best recollection is that I did not.

Q. Were you there the day that Kirk left the Shops to go to Caswell? A. No, sir, I think not.

Q. I mean the day that Kirk started? A. I may have been there in the fore part of the day. I think he left in the evening.

Q. Any time in the day? A. I am not positive.

Q. You don't remember that you were there? A. I don't remember whether I was there the day he left or not.

Q. Did you meet Austin Whitsett there? A. I met him there a day or two before.

Q. Did you not send wagons to haul a part of Kirk's things to Yanceyville? A. Yes, sir.

Q. Did you not go to the camp? A. Yes, sir.

Q. You were at the camp? A. Yes, sir, I don't know whether it was the day they moved or not.

Q. Whitsett was there but one day? A. I don't know how many.

Q. Did you meet him there? A. Yes, sir.

Q. Was it the day they left? A. I don't know whether it was the day they moved or not, I am not positive—I cannot specify.

Q. How many days was Kirk there after he began mak the arrests? A. I don't know.

Q. Don't you know that he began on the 15th of July? I have not kept the dates.

Q. You know that he left the day after he began to m the arrests? A. I have forgotten the dates.

Q. But you saw Austin Whitsett there then? A. Yes,

Q. That was before they went to Caswell? A. Yes, sir.

Q. Mr. Whitsett came to you with his wagon to haul a lo A. Yes, sir.

Q. In a conversation with Whitsett on that day did you point to the prisoners and say you were sorry for some of th friends of his? A. I think probably I did. I don't recoll all that I said.

Q. Did you not tell him that some of these men wo never come back? A. I don't recollect telling him that.

Q. Do you say you did not say so? A. I don't recoll telling him that.

Q. You did not tell him that some of these men would r come back? A. I don't think I ever told Mr. Whitsett so.

Q. Did you not tell him that there were some of these me naming Adolphus G. Moore and James Hunter, who wou "be lost by the way?" A. No, sir, I did not tell him so.

Q. You did not tell Stockard in the conversation we ha been speaking of that Kirk had a way of "losing men?" No, sir, I think not.

Q. Be positive about it? A. My recollection is that I d not.

Q. You neither told Stockard that Kirk had a way "losing men," and you didn't tell Whitsett that these two m would never come back? A. I did not tell that—I am almo positive about it.

Q. You did not say to Moore or Hunter or some of t company would be "lost by the way?" A. No sir, I nev did.

Q. When did you commence negotiating in relation to t

release of Mr. Boyd? A. It was a day or two after he was arrested—I think probably it was the second day.

Q. If he was arrested on the 15th that would be the 16th? A. I think it was on the next day.

Q. Kirk left the next day? A. I am not positive as to that.

Q. Did you approach Boyd on the subject, or he you? A. He approached me.

Q. Where? A. In the camp of Col. Kirk.

Q. You commenced then you say in that way but you don't know the day? A. No, sir, I am not positive about the day.

Q. Did you come to Raleigh immediately? A. I did, ou the next train—that night I think I came to Raleigh.

Q. How long did you remain here and when did yon go back? A. I think I went back the next day.

Q. Was that Sunday or Saturday? A. I cannot tell; I have forgotten what day it was.

Q. Where did this negotiation begin, at the camp at the Shops? A. At the camp at the Shops.

Q. Did Boyd go to Caswell afterwards? A. Yes, sir.

Q. Did you come down with him to Raleigh when he returned? A. I did.

Q. You came to the governor first and then went back to Caswell? A. Yes, sir.

Q. Did you accompany Boyd back here? A. I did.

Q. When you got here what was done? A. There my mission ended. I know nothing further of what was done only what the world knows.

Q. You did not see Boyd go before the governor and enter into $50,000 bond? A. No, sir.

Q. Do you know whether these men offered bail to Kirk at the time they were in camp in Graham before they were carried to Caswell?

Mr. McCORKLE. What men do you refer to.

Mr. GRAHAM. The prisoners—any of them—Boyd or the rest.

Q. Was not bail offered when these men were taken in custody? A. I don't know of my own knowledge.

Q. Do you not know it from Kirk? A. I heard——

Q. Did you hear it from Kirk or Burgen or from the governor? A. I heard Mr. Boyd say he had——

Mr. McCORKLE. We object to hearsay testimony.

The WITNESS. I don't think I ever heard Kirk or Burgen say so. That is my recollection.

Q. Did you hear the Governor say that he would not take bail? A. No, sir, I don't recollect that I ever did.

Q. Did you see a telegram from him directed to the Shops to that effect? A. I don't recollect of seeing it.

Q. Did you not tell them they would not be allowed bail-any of them.

Mr. McCORKLE. When?

Mr. BOYDEN. Yes, and who?

Mr. GRAHAM. I am speaking of the time that they were at the Shops? A. No, sir.

Q. You did not tell them so? A. Not at the Shops.

Q. Did you tell it at Caswell or anywhere else? A. I think I did after the thing had progressed for some time and I saw the operations of things.

Q. You did what? A. I told some of the parties that the governor would not take bail. I think it is probable I did.

Q. You told him the governor would not take bail? A. I think it is likely I did.

Q. Did you say they would be imprisoned and would be closely confined? A. I think, I told some persons that. That is my recollection.

Q. Was that after you had been appointed a member of the military court or before? A. I am unable to say as to that.

Q. Have you your commission as a member of that military court? A. No, sir.

Q. Did you ever receive it? A. Never.

Q. Were you appointed a brigadier-general for the purpose

of being made a member of the court? A. I understood that was the purpose.

Q. [By Mr. Smith.] Appointed by whom? A. By Governor Holden.

Q. Do you know of Burgen's selling the public stores at Graham? A. I don't know it of my own knowledge.

Q. Did you make a bid for some of it yourself? A. No, sir.

Mr. GRAHAM. We now offer in evidence the papers which have been proved and identified by the witness as having been written by himself.

The CLERK proceeded to read the three papers in the words following:

GRAHAM, July 29, 1870.

MR. HENRY ALBRIGHT,

SIR:—Please report to me to-day, if you wish to save yourself trouble.

Respectfully,

WM. R. ALBRIGHT,
Brig. Gen.

GRAHAM, July 29.

LT. COL. BURGIN:

The bearer of this, Henry Albright, has complied with requirements of the governor, you will please not molest him if he keeps the peace of the state.

Respectfully,

WM. R. ALBRIGHT,
Brig. Gen.

GRAHAM, August 5th, 1870.

MR. SIM. JEANS:

I learn you have been so unfortunate as to get in the White Brotherhood, come and see me, I will do all I can to get you out.

Respectfully,

WM. R. ALBRIGHT,
Brig. Gen.

Q. After you had given to Stockard that paper to exe
him from arrest when the arrest took place, did you
Stockard that day with Burgen? A. I did.

Q. I ask whether, after Stockard went up and voted, Bur
did not arrest him. A. He did, after voting.

Q. Do you know whether Stockard produced this safegu
that you had given him to exempt him, and stated that he
exempt from arrest. A. I think he did

Q. Don't you know that he did? A. That is my recol
tion—I think he did.

Q. Then you and Stockard and Burgen had an intervi
A. Yes, sir.

Q. What took place then? A. I wanted him to release h
I was acting in good faith; from that time my connec
ceased with Colonel Burgen.

Q. You and Burgen broke out then? A. We broke on t

Q. You had given Stockard a safeguard and Burgen ag
took him after he had voted? A. Yes, sir.

Q. Did Burgen see him vote? A. I don't know whet
he did or not.

Q. After he had voted you say Burgen took him into cust
again? A. He took him into custody after he had voted. T
is what I know to be a fact.

Q. Then Stockard produced this paper that you had giv
and Burgen did what? A. I reckon he tore it up. I exp
he tore it up. I don't recollect positively, but he swore
would not respect anything from me—that I had nothing to
with it.

Q. Didn't he simply tear the paper in two, and then t
came to you? A. I think he did.

Q. Was not the paper then produced, and did not Bur
tell you that that was his way of doing business? A. He t
me that I had nothing to do with this matter.

Q. That you had nothing to do with this matter? A. T
he was Colonel Burgen, and that I had nothing to do with th

Q. Did you take the paper and tear it up? A. I do not know who tore it.

Q. Stockard had voted in the election and this scene took place and Burgen arrested him and carried him off to the camp? A. I think he did. Burgen alleged another reason for doing it though.

Mr. McCORKLE. State the reason—you have a right to do it.

Q. What was the reason? A. He alleged that he had evidence that there was a man staid at Stockard's house and slept there the night Wyatt Outlaw was hung, and that this man had helped to hang him.

Q. That was alleged? A. Yes, sir.

Q. Did he state that before Stockard? A. I don't know whether he stated it before Stockard or not. I tried to keep Stockard from being arrested and acted in good faith in the matter.

Q. And Burgen you say carried him off to camp? A. Yes, sir.

Q. He did not do it until after he had allowed Stockard to vote? A. Yes, sir, that was the reason he gave me for it.

Q. He did not give that reason in the presence of Stockard? A. I don't know whether he did or not, I cannot say.

Q. You say that from that time forward you and Burgen did not have any further intercourse? A. We split from that. I did not issue any more orders as brigadier-general. [Laughter.]

Q. You did not resign? A. No, sir, I found my orders were not respected. [Laughter.]

Q. Did you continue your office as a negotiator between the governor and these people, going backwards and forward to Raleigh? A. Well, every person who came to me and asked me to assist him who was in that organization to get out of it. I did all I could for every man who asked.

Q. Were you paid anything for your services for all that? A. Not a cent.

Q. Were your travelling expenses paid on the railroad a otherwise? A. No, sir, I paid them all myself.

Q. Did you pay any railroad fare? A. I never had a f ticket on the railroad until I was appointed a director. I not certain whether I was a director then or not, but I thi not.

Q. Did you pay anything on these trips you were making this time? A. If I was not a railroad director I paid my fa and I don't know whether I was at that time or not. If I w not, of course I paid it.

Q. You have been very active in this defence in getting evidence for the governor? A. No, sir, I am not a very act man.

Q. You have not had any share in suggesting witnesses them to summon here? A. After I was summoned h myself I went to see the counsel and they asked me to g them what information I had.

Q. Did you not suggest a great number of witnesses to summoned? A. Not a great many.

Q. Have you suggested any? A. I think I have.

Q. Have you been in consultation with the counsel at dive times?—you have, have you not? A. Yes, sir.

Q. Have you been speculating in tickets of witnesses fr your part of the county?

Mr. SMITH. Mr. Chief Justice, we think that is an attem to go into an examination on irrelevant matters.

The CHIEF JUSTICE. The question is inadmissible.

Q. Who initiated you into the Union League? A. Go ernor Holden, I think—that is my recollection.

Senator GILMER. Mr. Chief Justice, I would like to a the witness a question.

The CLERK read the question of Senator Gilmer in t words following:

Q. Was it ever necessary during the time the company federal soldiers were at Graham to obtain assistance from the to make arrests, or execute search warrants or other civil

criminal process? A. I think not at the time while the federal troops were there.

Senator GILMER. Mr. Chief Justice, I would like to ask another question.

The CLERK read the question in the words following:

Q. Could you, upon application to the proper civil authorities, have secured the ready arrest of any citizens of the county without military aid upon your affidavit charging such citizens with a breach of the law? A. There was no trouble to arrest men in our county.

*Re-Direct Examination.*

By Mr. McCORKLE:

Q. You say there was no trouble to make arrests? A. No, sir.

Q. Was there any trouble in convicting? A. Nobody had been convicted except negroes charged with Kukluxing, that I recollect.

Q. Was it possible to prevent these raiding parties by the civil authorities. A. It was not possible.

Mr. MERRIMON. That is a matter of opinion.

Q. You say it was not possible? A. Not in my judgment.

Q. You say you joined the League about 1869, and that you were initiated by Governor Holden; state whether that was when he was governor of the state? A. It was before he was governor.

Q. Go on and state what the governor said were the objects and purposes of the obligation? A. I understood it to be a political organization, and that we would support none but loyal men for office. That was my understanding and my recollection.

Q. That you would support none but loyal men for office? A. Yes, sir.

Q. Will you state whether there was anything illegal required of the members? A. I never understood so. I always understood that there was nothing illegal in it, but quite the contrary.

Q. State whether there was anything unfriendly in it towa the government of the United States or its laws, or the gove ment of North Carolina or its laws? A. Nothing that I e knew.

Q. State whether there was anything in the constitution by-laws of the Union League which favored or countenanc in any way the commission of crime.

Mr. MERRIMON. We object to the question. The c stitution, by-laws and ritual of the order are in evidence.

Mr. McCORKLE. Nevertheless we have a right to ask t question.

Mr. MERRIMON. We object.

The CHIEF JUSTICE. The presiding officer does not s upon what ground——

The WITNESS. I cannot answer the question, because I w not well enough acquainted to answer it.

Q. I ask you if anything was ever said or done at any Leag meeting which you attended which favored or countenance crime in any way?

Mr. GRAHAM. The witness has already stated that ther was a proposition to burn barns.

The WITNESS. As I have stated, I was called upon to atten the meeting of the colored men of my county just after th first raid was made in Graham. There were three or four o five or six negroes who belonged to the League who wanted t retaliate on the Kuklux. The others were opposed to it.

Q. State how many persons were in the first meeting? A. The first meeting when I joined?

Q. The first meeting at which you stated there was this proposition to retaliate? A. I suppose there were thirty or forty.

Q. And out of the entire crowd you say there was how many —— A. There were three or four who advocated retaliation.

Q. State the reason they assigned for advocating retaliation? A. That they were being whipped and maltreated, and it was to protect themselves.

Q. Did they state by whom they had been whipped? A. By the Kuklux.

Q. Did they state anything about getting redress by law? A. That was what was agreed upon; a majority of them were in favor of it and finally agreed that they would resort to no means only lawful means for their protection.

Q. I ask whether they complained as to whether they could get justice? A. Yes, sir, they said they could not get justice.

Q. And out of thirty or forty you say there was only three or four who favored retaliation?

Mr. GRAHAM. The question is argumentative as well as leading.

A. There were only three or four that advocated it.

The CHIEF JUSTICE. The others voted it down.

Mr. McCORKLE. I think, Mr. Chief Justice, we have a right to everything that was said there.

Q. You said that Wyatt Outlaw was there? A. Yes, sir.

Q. I understand you to say that he discountenanced violence? A. Yes, sir, he was the most active man in opposition to any retaliation that there was there—I mean of the colored men.

Q. Then you attended another meeting? A. Yes, sir, for the same purpose.

Q. How long was that after the first meeting? A. It was a short time, I think about a week, probably.

Q. How many persons attended that meeting? A. I suppose there was as many if not more than there was at the first meeting.

Q. State what took place there—what matter was discussed? A. They all agreed that they would abide by the law and claim protection from the civil authorities, and if possible, to stay home and behave themselves better than they had ever done; but that if any men came to their house they would try and defend themselves.

Q. Was anything said about outrages committed upon them? A. Yes, sir.

Q. By whom? A. They all charged it upon Kuklux, they did not know whom.

Q. There were statements made by persons present relat to the outrages that had been perpetrated by the Kuklux? That is my recollection.

Q. Was Wyatt Outlaw there? A. He was there both tin

Q. State what he said and what counsel he gave? A. advised on both occasions to leave it quiet and be as industri as possible and depend for their protection upon the law of country and not to retaliate. That was his advice.

Q. How long was it from this last meeting of the Lea that you have spoken of before Outlaw was hung? A. I s pose about twelve months, as well as I can recollect.

Q. You were asked if you were not a brigadier-general. I you ever receive a commission? A. I got a commission.

Q. When did you get the commission? A. I can't give y the date.

Q. I misunderstood you, I thought you said you did not one. When did you get your commission about? A. I do recollect. It was last summer at the time when Kirk a Burgen were there, in Alamance county—and the raids we being made there.

Q. Were you commissioned as brigadier-general of t militia? A. Yes, sir, of the militia.

Q. And in no other way? A. Just a militia general—th was the way I understood it.

Mr. GRAHAM. Will you ask the witness what briga it was.

Q. Do you remember what brigade? A. I do not, but could produce you the commission and it would show for itse

Q. You stated in the outset that two parties had appli to you for warrants against the Kuklux and one of them w Ringstaff? A. Yes, sir.

Q. Was it the Ringstaff that was examined here a few da ago? A. No, sir.

Q. Where is the man who applied to you? A. He has left the county.

Q. Is he dead? A. I have never heard of his death.

Q. He applied for a warrant? A. Yes, sir.

Q. For what purpose did he apply for it? A. He said the Kuklux had whipped him and threatened that if he did not leave the county they would hang him.

Q. Did he state how many had whipped him? A. Yes sir, he said how many but I have forgotten how many it was.

Q. Did he state in what county it occurred? A. In Alamance county.

Q. How long ago was this since Ringstaff applied to you? A. I think, as well as I recollect, it was some time in the spring, March or April, 1869—no—I am mistaken, I believe it was in the fall of 1869. I am almost positive.

Q. Did he state whether he had been whipped by these disguised men? A. Yes, sir.

Q. What time was that? A. I have forgotten the time, but he stated to me at the time.

Q. Can't you give some idea? A. I think it was in the fall of 1869—that is my recollection.

Q. And that he was ordered to leave? A. Yes, sir.

Q. Will you state how long he remained? A. I cannot tell you that. I never knew he had left the county until since this investigation commenced here. I did not know he had left until I heard it from his brother.

Q. You were asked also if you had entered into a contract for the supply of beef to the Federal soldiers. I ask you if you had any contract with any one in reference to supplying beef until after they came here? A. Never before in my life.

Q. You say Bosher's troops came there? A. Yes, sir.

Q. How many of them were there? A. I don't recollect. think there were some thirty or forty.

Q. When did they come there? A. That was just after the first raid was made in the town of Graham, and when notice

was served on some persons, Mr. Badham and Mr. H
while we were investigating a Kuklux case there.

Q. How long did these troops remain? A. I am not
tive about the time, but I think fifteen, twenty, or thirty
along there.

Q. You were asked whether you had any conversation
the governor as to the purpose of these troops being sent t
Go on and state what the governor said?

Mr. MERRIMON. That is introducing new matter.

Mr. McCORKLE. No, sir. We did not say a word a
Bosher's troops on the direct examination. It was bro
out on the cross.

Q. Go on and state what conversation you had with
governor as to Bosher's troops being there, and what the
ernor said the object was in sending them? A. To prese
the peace of the county and state.

Q. [By the Chief Justice.] The counsel asks you for a
versation? A. I don't recollect all that occurred between
and him. I don't think I had much to do about that mat
I don't recollect of having much to do with that.

Q. I am simply asking you what the governor said? A.
my recollection serves me correctly the governor said that t
were sent to preserve law and order, and keep down
turbances in the county. That was my understanding at
time, and it is so yet.

Q. You were asked on cross-examination if you did not in f
countenance the sending of troops in 1869. You have a ri
to state your reasons which you stated to the governor
asking for troops? A. It was to put down lawlessness.

Q. Tell what you said to the governor? A. It was to
down lawlessness and promote——

Mr. GRAHAM. The witness says that he did not conve
with the governor before the troops came there.

The WITNESS. I don't think I did before. I said I
versed with him after.

Mr. Manager SPARROW. You will state what the g

ernor said and not what you think. A. I cannot tell what he said.

Mr. McCORKLE. I understood the witness to say that he conversed with the governor about the federal troops coming there.

Mr. Manager SPARROW. I understood the witness to be explaining what the governor's motives were.

Mr. McCORKLE. We only want his words.

Q. Give the substance of what was said to the governor? A. In regard to Bosher's troops I don't think I had anything to do with that, and that I did not see the governor until after they were up there. I had solicited the governor to procure United States troops there to preserve peace, and protect the lives and property of the people of Alamance county.

Q. I understood you to say in your cross-examination that you had countenanced their being sent there? A. I did.

Q. You say that there were twenty guns left there? A. Yes, sir.

Q. And you gave 'Squire Holt how many? A. Four of them.

The CHIEF JUSTICE. That is going over the old examination again.

Mr. McCORKLE. Mr. Chief Justice, we never heard of these guns or of Boshier's troops until the fact was brought out on cross-examination.

Q. What did 'Squire Holt say he wanted those guns for? A. He said he was afraid he would be Kukluxed, and he wanted to protect himself. A negro on his place had been whipped and he had been threatened.

Q. When did he say that happened? A. I don't recollect when, but it was shortly before or after that time.

Q. Who else did you let have a gun? A. Jim McAdam—Big Jim.

Q. What did he say he wanted it for? A. One of his negroes had been whipped who was living with him, and they had threatened him.

Q. [By the Chief Justice.] Is he the man who had coffin placed at his door? A. No, sir, that is another ma

Q. Who else did you let have a gun? A. I let a negro lived on my land have one.

Q. What was his name? A. Henry Watson.

Q. State what was the reason for letting Watson have a A. I am mistaken about that. I let him have a gun since which he returned.

Q. Who did you let have the other guns? A. I let H Band have another.

Q. What did he say he wanted it for? A. He said wanted to protect himself.

Q. I understood you to say in your cross-examination to that it was the commissioners of the town and not you alone who authorized the employment of a guard or pol A. Yes, sir, the town commissioners passed an order to effect.

Q. Name the men they selected? A. I don't know whe I can recollect them or not. James Underwood was the w man I know, and Aleck Ruffin was one and Henry Band another. I know the others, but they have just slipped mind.

Q. They were to be used in the night only—state what commissioners said, and why they required an armed gua A. To give notice of the coming of any Kuklux, so that might protect ourselves. That was it as I understood it.

Q. The object was to give reasonable notice to citizen protect themselves? A. Yes, sir, to preserve the peace of town.

Q. You were asked as to the part you had taken in induc persons to make confessions. Go on and state what mot you had in approaching these persons?

Mr. GRAHAM. I asked the witness not in reference his motives, but as to the conversation.

Q. State the conversations you had with these persons wl they made confessions before you. Take up the case of Jo

R. Stockard first? A. John R. Stockard, if I recollect correctly, said that he joined the organization and he was very sorry for it; that when he joined it he looked upon it as a political organization, but that they had commenced committing these outrages and he could not approve of it, and was very glad that the opportunity had presented itself so that he could get out of the organization. He signed a paper to that effect.

Q. Did he say why he could not get out before? A. It was a part of the organization that bound them not to reveal any secrets. I mean a part of the obligation.

Q. That was the reason he gave you why he could not get out before? A. Yes, sir, that is my best recollection of it.

Q. Did he give any other reason—fear or otherwise? A. Yes, sir.

Mr. GRAHAM. I would be glad to have the witness state the whole conversation.

A. I think I have an affidavit in my pocket which I made, and which will refresh my memory.

Q. You have a right to look at it? A. He stated to me that he had great fear for me, and told me that he had ridden twelve miles to save my life, and that he wanted me to do all I could—to do as much for him. He said that he had seen W. S. Bradshaw, J. H. J. Clendenen and James Boyd about it. He said that they were going to make a raid on me, and that he had rode the whole day to prevent it, and he wanted me to do all I could to prevent him from suffering which I did in good faith. I thought I had the affidavit here, but I cannot find it. That was the sum and substance of it all in regard to myself.

Q. You were also asked if you didn't inform Austin Whitsett that Kirk's men had a habit of losing men, and I understood you to say that you never made such a remark? A. I don't think I made that remark—I know I never made it.

Q. I ask you if any of the prisoners which Kirk carried to Yanceyville were "lost on the way?" A. No, sir, not that I know of.

The CHIEF JUSTICE. That is proving a negative. T
law assumes that they were not lost until the contrary appe

Q. You also state that the governor authorized you to say—
A. He did in so many words.

Q. Wait till I get my question out. He told you t
wherever members of the organization would come out a
admit that they were members, and would dissolve their c
nection with it they should be protected? A. Yes, sir, that
would do all he could to protect them.

Q. What else did he say to you in that same conversatio
A. That they should all be pardoned—every man who ma
an honest confession.

Q. Did he state anything else to you? A. He said a go
many things. I really cannot tell all that passed.

Q. Can you give the substance? A. I think it was the su
stance that the sole object was to break up this organizatio
and give peace and quiet to the country. He had no oth
purpose than to protect the lives and property of the people
Alamance county.

Q. That he had no purpose except to protect life and pro
erty in Alamance, and to restore peace and quiet? A. That
what I understood, and he so expressed himself to me.

Q. You also said in your cross-examination that at one tim
you informed some persons that bail would not be taken. I as
you what parties they were for whom you said bail would no
be taken? A. If I recollect right, I said that, but I don't r
collect what parties. My recollection is that the matter ha
progressed sometime, and that I did tell some parties that, bu
I forget who they were and when it was.

Q. Could you give any reason why bail was not to be a
lowed?

Mr. GRAHAM. I submit, Mr. Chief Justice, that th
witness is not at liberty to give reason unless they wer
stated by the respondent? A. I understood that they woul
not be allowed bail in the proceedings that were then going
on at the time.

Q. [By the Chief Justice.] Why would they take bail for some and not for others?

Mr. GRAHAM. It is not suggested that anybody was allowed bail, the statement was that bail would not be taken.

The WITNESS. I meant unless they made a full and frank confession.

Mr. GRAHAM. You said that bail would not be taken at all before.

The WITNESS. Without they made a frank confession there would be no bail allowed. I wish to qualify.

Q. That is what you meant by bail not being allowed? A. Yes, sir, that qualification slipped my memory in my answer.

Q. Then whenever they made a frank confession they were released? A. That is what I understood to be the meaning.

Q. Will you state why you wrote this communication to Sim Jeans? A. Yes, sir, as well as I am able. Some friend of his came to me and told me he belonged to this organization and wanted to get out of it and did not want to be punished; that he had meant no crime and he wanted me to aid him in getting out.

Q. That was the reason? A. That was the reason.

Q. It was to protect him? A. Yes, sir.

Q. Did you have the same object in view in writing to Henry Albright? A. I did. He was my brother, and I had that feeling for him that I ought to have.

Q. I understand you to say that after Stockard had been arrested the second time Burgen assigned some reason for his arrest—what was it? A. He assigned to me as a reason that he had new evidence against Mr. Stockard.

Mr. GRAHAM. I submit, Mr. Chief Justice, that this conversation between the witness and Burgen is not proper.

Mr. McCORKLE. It was a matter that was called out on the cross-examination by the counsel.

The CHIEF JUSTICE. That was in regard to Burgen's disregarding safe conduct or safe-guard which the witness gave Stockard. What explanation did Burgen give in regard to it?

A. He said that he had new evidence against Mr. Stock that one of the parties who had helped hanged Wyatt sta at Stockard's after the hanging, and that John Stockard expressed himself to another party. That is the way I und stood it.

Q. That was his tale? A. Yes, sir.

Q. He did not satisfy you and you and he broke? A. Y sir. I wanted to act in good faith in the matter.

The CHIEF JUSTICE. That is going over the sa ground he did before.

The WITNESS. Stockard is my own cousin ——

Q. I understood you to say that you had frequent intervie with the governor as to sending troops. Did he refuse sometime to send them? A. Yes, sir.

Mr. BRAGG. He refused to send what troops?

Mr. McCORKLE. Any troops.

The WITNESS. He said he had not them to spare. Tho were federal troops I spoke of.

Q. He declined to send them for some time?

Mr. BRAGG. What troops?

The WITNESS. Federal troops.

Q. Did he say why he refused to send them? A. He sa he had not the troops to spare, but that he would send the as soon as he could. He promised time, time and again send them and they did not come, until Wyatt was hung- the federal troops.

PETER R. HARDIN, *a witness called on behalf of t respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. State your residence, age and occupation? A. I resid in Graham, North Carolina. I am about forty-nine years ol and my occupation is that of a merchant and farmer.

Q. Do you hold any office? A. I am a magistrate.

Q. How long have you been a magistrate? A. I hav

been a magistrate since the early part of 1860 or 1861. I then commenced my magistracy.

Q. State what you know in regard to the Kuklux, or men coming disguised into Graham, and what they did to your house? A. Do you mean what I know of my own knowledge?

Q. Yes, of your own knowledge. A. I had a complaint made to me sometime early in 1869, by a colored man named Caswell Holt, that the Kuklux visited him a night or two before and severely whipped him, and he came to me for protection to try and arrest the parties who were engaged in it.

Q. What did you do? A. I issued a warrant for the parties he suggested and had them brought before me. I investigated the matter the best I could but the investigation amounted to nothing.

Q. What was the difficulty? A. I found great difficulty in getting anybody who knew anything about it. Everybody seemed to be ignorant. Every witness that I had could prove himself elsewhere. I found the testimony would not reach the case.

Q. Every witness proved himself elsewhere you say? A. Yes, sir.

Q. Proved what are called *alibi's*? A. Yes, sir.

Q. You mean the defendants? A. Yes, sir.

Q. Did the matter stop there? A. That matter did; I had to dismiss it in that way. I could not find any party who could be proven to have committed the crime alleged.

Q. Did any other case come before you as magistrate? A. Yes, sir, I had one or two others. I had one case in which I sat with two or three other magistrates; it has been pretty generally testified to here by 'Squire Albright.

Q. Did you hear his evidence in regard to it? A. Yes. sir.

Q. State what happened? A. I differ with him in one thing as to the parties bound over to court. I may be mistaken; I can only give my opinion. We bound over Ireland to court.

Q. Which Ireland? A. John Ireland and Rooney and a young man named Isley. I don't think we bound over Caffey; we may have done so. He was one of the parties against whom it was alleged, and who 'Squire Albright thinks was bound over. I am confident of the others being bound over.

Q. Did anything come of it in court? A. It went over to court, and after the court I learned from the court that a true bill had been found against some of them—perhaps Ireland—

Q. Against who? A. Perhaps Ireland, or some of them. Afterwards the clerk told me that on a careful examination of the paper that a little word "not" seemed to have appeared in the paper ——

Mr. GRAHAM. We do not want any conversations with the clerk. You did not see it? A. No, sir.

Q. [By the Chief Justice.] There was nothing further done—no prosecution? A. No, sir, nothing further was done.

Q. Were you in Graham the night they made their first raid through there? A. No, sir. I was north at the time.

Q. Were you there the night Wyatt Outlaw was hung? A. Yes, sir.

Q. Did they go past your house that night? A. They passed by my house.

Q. What did they do as they passed by? A. They were halloaing all kinds of the most outrageous noises that I ever heard in my life, like a set of hyenas or something of that kind. howling around.

Q. Are you pretty well acquainted in the county of Alamance? A. I think I am.

Q. Have you been there all your life? A. I was raised within three quarters of a mile from where I live now.

Q. You are a merchant and farmer? A. I have been merchandizing ever since 1851.

Q. Are you pretty well acquainted in the county? A. Yes, sir.

Q. State what is the feeling between the two races—the white and the colored—what it was up to the time of Wyatt

Outlaw's being hung up to the time of Governor Holden issuing his proclamation and up to the time of Kirks coming there? A. Since the war, I think as a general thing, the democratic or the conservative party in my country have had a prejudice against the colored people—since they have been permitted to vote.

Q. To what extent? A. I have to judge from their actions. There have been a great many crimes committed and a great many outrages in one way and another.

Q. Upon whom? A. Upon the blacks. Some have been hung, some have been drowned and great many have been whipped—that is the ground work upon which I based my idea that a prejudice does exist—the treatment they have received from the whites.

Q. State whether or not there has been any punishment by the courts for these hangings, drownings and whippings? A. Never, except in the case of the negroes.

Q. Negroes who Kukluxed were punished? A. Yes, sir.

Q. [By the Chief Justice.] You refer to those in the penitentiary? A. Yes, sir, they are in there now. I never heard of any other men in disguise who have committed crime who have been punished.

Q. Did you sign a letter, together with several other gentlemen, to Governor Holden after Wyatt Outlaw was murdered? A. I did, and for that I have had my life threatened.

Q. Who by? A. I cannot say that they have threatened me to my face, but indirectly.

Mr. GRAHAM. We do not want any hearsays.

Q. Did you ever receive a note in reference to it? A. I received a note before that.

Mr. GRAHAM. Let the note be introduced.

Q. Have you that note now? A. I have seen it, but I have not it now, and I don't know what became of it. It was directed to Major Badham.

Mr. GRAHAM. We object to the contents.

The WITNESS. The note was directed to Major Badh who was instructed in it to say to me ——

Mr. GRAHAM. We object to the contents of the n being proved. The note itself is the best evidence.

By the CHIEF JUSTICE:

Q. Was that the note which was thrown into Major Badha yard? A. It was the note thrown into the yard. I saw t note.

Q. You did not see the note thrown in? A. He said picked it up in his piazza.

Q. Is that paper lost? A. I cannot tell. Mr. Badh showed it to me and I handed it back to him. I have m some enquiry for it since, and I understand it cannot found.

By Mr. BADGER, [resuming:]

Q. He has left the county? A. Yes, sir.

Mr. BOYDEN. I would suggest that it does not make difference where the note was found, or who found it, if i a threatening note, so far as this case is concerned.

The CHIEF JUSTICE. If it had been thrown into witness' yard or he had seen it thrown into Badham's yard might be competent to prove its contents if it could not be p duced. But the foundation has not yet been laid for admitt the proof.

Q. Were you afterwards threatened—at any other time.

Q. [By the Chief Justice.] What about these noises t you heard. What did they signify? A. It was a kind of thr ening attitude as they went around.

Q. Give us an idea of what it was? A. I could not und stand any words that they said, but it was a howling—an landish mockery.

Q. They were disguised? A. Yes, sir, they were disgui

Q. How many were there? A. I think about forty par went by my house. I will relate the circumstances—wh saw of the Kuklux. It was about twelve o'clock in the nig and I was awakened by tremendous noise of the dogs ba

ing. It seemed to me like the dogs were going to take the town. I woke up——

Q. [By the Chief Justice.] Was there anybody with you? A. I called my wife's attention to these dogs barking. I went to the window and looked out when my daughter came down—I had not seen the Kuklux at the time they were there before, for I was in the north—my daughter ran down and told me, "Pa, it is the Kuklux."

Mr. GRAHAM. You need not speak of your conversation with her.

The WITNESS. I stayed there until they passed by and came up in the direction where Wyatt lived. Directly two of them went the other way in the direction where Henry Holt lived who waits on me—in and about my lot—he is a boy that I have hired. The two went down there. They were in disguise. For about twenty minutes everything seemed to be perfectly quiet. I stood at the window looking out and after a while—after a lapse of some twenty minutes I heard them begin these unnamed noises again. I cannot give any name for it. They rode by towards the court house and I could hear the horses go galloping by my store, and turn the corner at my store down by my house. When they first began to come I did not count them, but in a minute I did so and I counted about thirty-six. I suppose there were two or three passed by before I commenced counting. I think there were about forty altogether.

Q. Did they halt by your house? A. No, sir, they did not halt. I cannot tell myself what kind of words they were using. They were halloaing and making these noises that I have spoken of.

Q. Did you hear any noise in the direction of Wyatt Outlaws? A. No, sir, I did not hear any. It appeared to be quiet after I saw them passing.

Q. Was there any noise in the direction of Henry Holt's house? A. No, sir, I heard no noise there.

Q. That note that was handed to you by Major Badham how long was it after the occurrence?

Mr. GRAHAM. I object to any evidence about that nc

Mr. BADGER. Mr. Chief Justice, if we can show tha was about the time that these persons visited there, it is c circumstance tending to connect it.

The CHIEF JUSTICE. The presiding officer does ı see how you can bring it to bear as evidence yet.

Mr. SMITH. Our object, Mr. Chief Justice, is to show t threat which was in writing, and we contend it is immater who it was written by or who it came from, if, in fact, it v a threat against this witness.

Mr. GRAHAM. It might be thrown in by any pers passing through, and nobody knows whether it was a genui paper or not.

The CHIEF JUSTICE. The presiding officer has exclud it as being too remote.

Q. Was the letter which you sent to the governor, a which you and others signed, a statement of the true conditi of things in Alamance county? A. I thought so. I do recollect of noticing the letter very carefully. I did not wr it myself. It was brought to me and I read the letter ov and I thought it was just about a true statement of what h just occurred. If I have a correct recollection of it, it simp stated that a most outrageous murder had been committed t night before by the court house by a party of disguised m I don't recollect of our asking the governor to send his troo but we asked his attention to it. My recollection is, that was a true statement, and I think so yet.

Q. Did you come down to the governor at any time befc the military was sent to Alamance? A. No, sir.

Q. You did not come down? A. No, sir.

Q. Did you write to him at any other time? A. No, sir have not seen the governor in eighteen months, I think.

*Cross-Examination.*

By Mr. GRAHAM:

Q. You say you issued a warrant in the case of Caswell Holt? A. Yes, sir.

Q. Nobody could be identified as having committed the crime and you dismissed the warrant? A. Of course I did.

Q In the case of Joe Harvey you say you bound over certain parties? A. Yes, sir.

Q. There was not a true bill found as to those parties? A. I understood not.

Q. That is the extent of your knowledge in regard to that case? A. Yes, sir.

Q. You know of no case in which a bill was sent where a true bill was not found except in the case of Joe Harvey? A. I don't understand you.

Q. Do you know of any case where a bill was sent againt a person for committing an outrage on black people where a true bill was not found except in the case of Joe Harvey?

Q. [By the Chief Justice.] Do you know of any case where a true bill was found? A. I know of no case where a true bill was found.

Q. You know of no case where a true bill was not found where a bill was sent? A. I know I sent my papers up but I never heard that a bill was found.

Q. That was Joe Harvey's case? A. Yes, sir.

Q. Did you send any other? A. I did not send up the case of Holt, but there was another case. They were some parties who were before me when I was sitting with other magistrates, I do not know who filled up the papers.

Q. Whose case was that? A. Ringstaff's. I never heard of that afterwards.

Q. Ringstaff was charged with hog stealing? A. I do not know, he was never charged with it beforeme.

Q. This was a case where you sat with Albright? A. He sat with me in that.

Q. That was the case where the witness did not appear in court? A. I don't know what became of him. I have not seen him since.

Q. These were the only cases that you sent up? A. I those were the only cases.

Q. Now in regard to the state of feeling between the you say that some people were hanged, some drowne some maltreated one way and another. Did you ever h anybody being put to death except Outlaw and Puryear There was some others by the Alamance line.

Q. I was speaking of Alamance? A. I think they hanged in Alamance near the Orange line. I think there one or two. That has been my information—I may be taken.

Q. The proof has been to the contrary? A. I was told it was in Alamance.

Q. Now in regard to the case of Joe Harvey. Were here when he was examined? A. I did not hear him.

Q. He has been examined on this trial? A. I do not k that he has.

Q. You have heard of one man drowned in Alamance one man hung? A. These are all that I have heard of u these other men were hung in Alamance.

Q. Do you undertake to say that these men who have maltreated, were thus treated by what you call the democ party? A. Yes, sir, and conservative.

Q. You undertake to say that do you? A. I undertak say that there was not a kind feeling towards the colored pe since the surrender. I undertake to say that these disgu klans of men have committed these outrages.

Q. Do you undertake to say that they were committe account of politics? A. I can't tell that, but I rather thi is because ——

Q. You say that there is a prejudice on the part of the d ocrats or conservative party against the colored people. I if the democrats or conservatives are not in the habit of gi the colored people employment and whether the colored pe do not work for them? A. They do.

Q. Do you not know that they are united with the Un

League? A. I do not know that they have united with the League.

Q. Do they generally vote the republican ticket? A. Yes, sir.

Q. Did you ever belong to the League yourself? A. No, sir.

Q. In these outrages which men perpetrated of which you now speak, have not accounts generally been accompanied with a report that the man had been stealing or committing some crime? A. Yes, sir, they generally have some little frivolous excuse for it.

Q. I am not asking if the excuse is frivolous or not. Do you undertake to say they are not guilty of it? A. No sir, they are sometimes said to have been caused by the parties whipped having said bad words in the presence of ladies, and sometimes they have been charged with doing some other things.

Q. Sometimes charged with stealing and sometimes with barn-burning? A. Yes, sir, I have heard of those charges.

Q. Do you undertake to say in this court that these crimes had been committed on account of political hostility? A. I do not know anything else that gets up the unkind spirit towards them.

Q. Do you know of the relations of the parties, of the men who have suffered and the men who have inflicted punishment—are you able to give any facts about that? A. I can only give the facts stated to me.

Q. Siddell—he is a white man, do you suppose that he suffered upon political account?

Mr. McCORKLE. The witness has not stated that he knew Siddell.

Q. Did you know him? A. I never saw him.

Q. Did you not know that he was a democrat? A. I did not know his politics—I do know Siddell, I was thinking you referred to Corliss. I have seen Siddell. I never saw Corliss.

Q. Do you know that this man Caswell Holt was a man of bad character and a thief? A. I did not know. He had never

been charged with that before me and I never heard of
being charged with it. That was not the excuse given
whipping him.

Q. He stated so to Colonel Jerry Holt. He swore that h
that he was whipped for stealing——

Q. [By Mr. Smith.] State what the ground was? A. T
charged him with showing his person in an apple orchard
white lady. That is all I heard.

Q. Did you not hear both charges? A. No, sir, I ne
heard the other charge.

Q. Don't you know that Joe Harvey was a man of bad ch
acter? A. I have heard that said but I do not know the f

Q. The political parties in Alamance county are divi
about equally? A. I do not think there is much differe

Q. You take a pretty strong interest in these matters y
self? A. No, sir, I never went on the election ground to
a man to vote in my life.

Q. You always vote the republican ticket? A. Not alw

*Re-direct Examination.*

By Mr. BADGER:

Q. What was the character of Wyatt Outlaw—did you kn
his general character? A. I think I did.

Q. What was it?

Mr. GRAHAM. I submit that that is going into n
matter.

Mr. BADGER. I withdraw the question.

Q. I ask whether or not the instances of outrage that have co
to your knowledge as having been committed by the Kuk
have not been committed on white and colored republica
A. All that have come to my knowledge.

Q. The whipping, scourging, hanging and drowning h
been upon white and colored republicans? A. I have he
of some abuses towards some women in the country—I do n
know whether that was political or not. I do not think I kn
of an instance of a complaint made to me of an outrage b
what the victims were republicans.

By Manager SPARROW:

Q. Have you not heard on the other side that all the barn burnings and stealings and cases of insulting women have been by republicans? A. Whenever I have heard that it has originated from the Kuklux.

Q. Have you not heard the fact? A. I have heard it originated from the Kuklux as an excuse for their actions.

Q. Did they tell you they were Kuklux? A. I have heard some tell me so.

Q. They then stated that these things were done by republicans, and that it was the reason for republicans having been whipped? A. They have stated how?

Q. You say the Kuklux told you that these things were done by republicans? A. I don't say that.

Q. Who did you say told it? A. I say that it originated from the Kuklux that these allegations of barn burning have been made as their excuse.

Q. You aver that? A. The things have been going on until I know most of the Kuklux—their own confessions and confessions of other members of the brotherhood.

Q. At all events the allegations are that these things have been done by the republicans, and that is the reason they were whipped?

Mr. BADGER. If this new matter is gone into I shall ask the privilege of a re-examination.

A. I say it has been the general excuse for the actions of these disguised men when they have taken out people and whipped them, that they were charged with barn burning or something similar, but there never has been a case proved that I know of.

*Re-Direct Examination.*

By Mr. BADGER:

Q. You are pretty well acquainted with the Kuklux in the county, you say? A. Yes, sir.

Q. How many are there?

Mr. GRAHAM. We object to the question.

Mr. BOYDEN. That matter was brought out by the man ager in his cross-examination.

The CHIEF JUSTICE. The witness must state his mean of information if he proposes to testify to the fact.

Q. Had you any reliable means of knowing? A. I know of it from themselves. The men themselves have mad affidavits before me and have talked with me since statin that such and such parties belong to the organization.

Q. How many are there in the county? A. I. don't thin I could tell you the number in the county.

Q. Can you tell in the neighborhood of how many?

Mr. GRAHAM. I object, Mr. Chief Justice, on the groun that the affidavits themselves should be produced.

The WITNESS. I think I made three or four affidavits of pe sons who admitted they belonged to the organization in th neighborhood.

The CHIEF JUSTICE. The presiding officer thinks tha the witness has not shown himself to be sufficiently qualified

By the CHIEF JUSTICE.

Q. When were the affidavits made? About the time Kir came there? A. They were made about that time.

Q. Did you get information from any of the chiefs of th klans as to the number? A. No, sir, I never heard one o the chiefs say anything about it, that I recollect.

The CHIEF JUSTICE. These affidavits were evidentl made after the thing was over.

Mr. BRAGG. It has been expressly ruled by the cour that hearsay proof cannot be admitted. That question aros in the testimony of Hughes.

The CHIEF JUSTICE. The presiding officer thinks tha what was done after the thing was exposed is not admissible They might be telling big stories just to curry favor.

GEORGE K. FOUST, *a witness called on behalf of the re spondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. What office did you hold in Alamance county in 1869? A. Coroner.

Q. Were you coroner at the time Wyatt Outlaw was hung? A. Yes, sir.

Q. And were you also a coroner at the time Puryear's body was discovered? A. I was.

Q. State whether or not you held an inquest on the body of Wyatt Outlaw? A. I did.

Q. Did you record the proceedings? A. I did.

Q. Did you forward the proceedings with the verdict of the jury to the court? A. I did.

Q. Has any bill been found against any person in regard to that? A. Not that I know of.

Q. Where do you live? A. I live in Alamance county.

Q. What part of the county? A. About four miles south of Graham on the Alamance river.

Q. Did you hold an inquest on the body of Puryear? A. I did.

Q. Did you take down the proceedings in writing? A. Yes, sir.

Q. And forward them to the court? A. I did.

Q. Nothing has ever been done about that crime so far as you have heard? A. No, sir.

*Cross-Examination.*

By Mr. GRAHAM:

Q. There was nobody charged on affidavit with having committed the murder of either of them, was there? A. No, sir.

Q. You made the inquiry in the usual way and endeavored to find out? A. I did, sir.

Q. And summoned every witness who it was suggested knew anything about it? A. I did, sir.

Q. In both cases? A. I did.

Q. Do you remember in the examination in the case of Outlaw whether the woman in the house did not swear that one man that came to take Outlaw out was a colored man?

Mr. BOYDEN. I object to that question upon the ground

that the proceedings were written down and the writing is better evidence. Our supreme court has expressly dec that question. Until they show that the writing has been or cannot be found, they can offer no parole testimony On that I refer to the State *vs.* Paris.

Mr. GRAHAM. They have inquired whether this cor held an inquest over the body of Outlaw and have elicited fact that he took the examination and returned it to c They therefore have introduced the scene itself—the hol of the inquest. What I wish to prove is what was sworn a time the inquest was held.

Mr. BOYDEN. It has been proved that he put i writing and that is the reason he cannot offer it.

The CHIEF JUSTICE. The presiding officer thinks ac ing to the course which has been pursued, you may offer i

Q. State whether it was not sworn? A. It was.

Q. What did she say?

Q. [By the Chief Justice.] State who it was that you talking about? A. Well, I didn't know the negro woman never had seen her before.

Q. Was she Outlaw's wife or mother? A. She purpo to be Outlaw's sister-in-law.

Mr. BADGER. We have not examined her here.

Mr. GRAHAM. I don't think that makes any differe

The CHIEF JUSTICE. Has she been examined here?

Mr. GRAHAM. No, sir, but she was examined on trial.

The CHIEF JUSTICE. The presiding officer thought were offering this as to some witness—the woman exami here as to the taking out of Wyat Outlaw. He does not th you can offer it as independent evidence without producing paper.

Q. Is the clerk of your court at home at present? A. I not able to say. I have been here about a month. I wa home a few days ago but was quite ill.

Q. [By the Chief Justice.] He has a deputy there, has he? A. Yes, sir, he has had before, and I presume he has now.

Q. Do you know a man by the name of George Rippey—a colored man who has been spoken of here? A. I do, sir.

Q. Did you visit him after he was alleged to have been whipped? A. I saw him after he was whipped.

[An offer of proof in reference to the cause of Rippey's being whipped was here made by counsel for the managers, but it being excluded, the stenographer was instructed to not include it in his report of proceedings.]

Q. In these juries of inquests in both instances state whether or not all pains were taken to endeavor to ascertain who had been guilty of the murders.

The CHIEF JUSTICE. And also whether they were composed of blacks and whites?

A. No, sir, they were composed of white men solely in both instances.

Q. You summoned them? A. I did, they were good men.

Q. What view had you in summoning the men you took? A. The law required that I should select the best men that I could procure and I selected the best men that I could get hold of, in coming in contact with them—just the immediate neighbors in the usual way, the way in which I had been doing. I had been coroner for several years.

Q. You selected those whom you considered competent and good men? A. I did.

Q. Was the examination fully made? A. Fully and thoroughly. I took every interest and pains in the world to give satisfaction to the parties who were interested; inquired of any witnesses, parties, or persons who knew anything.

Q. Or could suggest anything? A. Yes, sir, or give any information in regard to it.

Q. This was as full an investigation as you were capable of making? A. Yes, sir.

Q. And after taking the inquest, you say you returned it to the court in the usual way? A. Yes, sir.

Q. That no evidence was brought forward which charged anybody with crime in either instance, and therefore nobody was bound over? A. No, sir, no person at all.

Q. You were holding a public position and are considerably acquainted in the county? A. I am, sir.

Q. State what has been the state of feeling between the black and the white races there for the last two or three years? A. Well, generally it has been very kind and good as far as I know, with a few individual exceptions.

Q. Was there any unsafety to the black race generally—their persons and property? A. Not that I knew of. Those that behaved themselves, as far as I knew, were safe.

Q. And got employment? A. Yes, sir.

*Re-Direct Examination.*

By Mr. BADGER:

Q. You say the juries were made up of white men? A. Yes, sir.

Q. Do you recollect the names of the jurors in Wyatt Orr's law's case? A. No, sir, I do not, not all of them.

Q. Mention some of them, if you please? A. A. W. Davidson was one, Mr. Turner was another, Dr. John K. Ruffin—

Mr. GRAHAM. I suppose that ought to be fortified with a paper also, if we are to go by strict rules.

The CHIEF JUSTICE. I do not know for what purpose they ask it.

Mr. BADGER. I want to see whether these men were members of the Kuklux. We have had the names of a great many Kuklux proved here, and very respectable men are among them.

Mr. GRAHAM. I suppose that if we cannot give in evidence anything pertaining to the record without having the return of the officer here, the respondent ought to have it here to show whether the jurors were rightly named or not.

Mr. BADGER. The answering of jurors is not a part of the record, sir.

The CHIEF JUSTICE. The names of the men on the jury

are. The presiding officer does not see that you can offer this testimony.

Q. Were any of them Kuklux? A. I am not able to state. I did not belong to the organization and am not able to state who were and who were not members.

Q. From your knowledge of the men, or by their own statements since? A. No, sir, I am not able to state that.

The CHIEF JUSTICE. You can send up and get a copy of the record of the coroner's inquest if you want. That is the best evidence. The witness does not recollect anything particularly about it. He said he summoned such men as he thought were good men.

The WITNESS. I did, sir.

Q. [By the Chief Justice.] And if they belonged to the Kuklux you did not know it? A. I do not know who does and who does not.

Q. What was the ground upon which you based your opinion just now that there was a very good feeling existing between the two races in that county? A. On the ground that it is actually a fact. There is no other reason.

Q. Is the number of outrages up there one of the facts? A. I do not know of a number of outrages of my own knowledge.

Q. But you have heard of them have not you? A. I have heard of several by public rumor and report.

Q. Have not you got just as full information in regard to the outrages as you have with regard to the feeling of the people of the county towards the negroes? A. Which? The number of outrages?

Q. Yes, sir, from reputation? A. There are a good many negroes in the neighborhood on the river where I live. They are generally hired and there is no party who refuses to hire them except for laziness or indolence.

Q. I am not speaking of the hiring, I was asking you with respect to the answer you made to the question of the counsel [Mr. Graham.] You stated the general fact. Now I ask you if numberless outrages committed upon the negroes, hanging,

the drowning, and whipping—whether they are a part of the facts upon which you make up your opinion? A. No, sir, for I don't know whether they were committed by the white race or the black race. I don't know what race committed them.

Q. I will ask you whether in hearing of these outrages it was not always said that there was cause personal to the individual punished himself for his being punished—that is whether at the time you heard of persons being whipped or otherwise maltreated they were charged with stealing or some other offence? A. Yes, sir, there is always something of the kind accompanying the report.

Q. [By Mr. Badger.] About Wyatt Outlaw, what excuse was offered for his killing? A. I don't know, I have heard different rumors in regard to it.

Q. [By Mr. Merrimon.] What are they? A. Well, I heard rumors that he was too intimate with some white woman, and others that he shot at the Kuklux. That is all I can state.

The CHIEF JUSTICE. Can you say anything in reference to the generally received opinion as to his general character and reputation among the people there? A. I cannot.

ALBERT MURRAY, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BOYDEN:

Q. Where do you reside? A. In Alamance county.

Q. Have you lived there a long time? A. I was born there.

Q. Have you ever been sheriff of the county? A. Yes, sir, I am now.

Q. When were you elected? A. In September, 1868. September 7th I believe. Elected by the county commissioners.

Q. Have you been sheriff ever since? A. Yes, sir. There was a little interval when I was not.

Q. Tell us all you know about the Kuklux in the county

the White Brotherhood or the Constitutional Union Guard, and whether you are a member or not? A. I joined the Constitutional Union Guard in the year 1868—the White Brotherhood, I mean.

Q. What time? A. I don't recollect the month or the day.

Q. What season of the year? A. It was in the summer season. I don't recollect the month. It was in warm weather. I recollect that very distinctly.

Q, It might be warm in fall? A. Yes, sir.

Q. The proof seems to be that the order was not introduced there until November in that year? A. I don't know when they were introduced there.

Q. Try and fix the time as well as you can? A. I don't recollect the day.

Q. You cannot tell the season of the year? A. I recollect it was warm weather. That is all I recollect distinctly about it.

Q. Where did you join? A. It was not very far from my house. It was on the Haw river.

Q. Who were present? A. I don't know but one or two of the parties.

Q. State those you know? A. A gentleman by the name of Lineberry and a man by the name of Ellington and some others. I don't recollect exactly. Most of the parties were in disguise and I didn't know them.

Q. What Lineberry was it? A. Archibald.

Q. Can't you tell but two? A. I knew them probably at the time, but I don't recollect distinctly now. There was nothing special to call my attention to it.

Q. Tell how they were disguised—you say most of them were disguised? A. Well, some of them had horns—they were all dressed in white generally.

Q. Did they have their faces concealed? A. Yes, sir, all concealed

Q. Just describe where this place was—whether it was in the day or night, or in the woods or not? A. It was in the

night I suppose, between eight and nine o'clock; it was do on the Haw river, not far from the place known as Sellers' m dam.

Q. In the woods? A. Close by the side of the river—y sir, there were some woods there.

Q. I ask you whether it was in the woods—you say th was some woods there? A. It was in the woods.

Q. Tell as near as you can how many were present? I could not say. I suppose there were some eight or ten. don't know how many there were.

Q. Were there not more than eight or ten. A. I do think there were. I did not count them that I recollect.

Q. You don't know how many there were? A. I d think there were more than ten probably.

Q. You are very certain you did not count them? A. I sure I did not.

Q. Who presided at that meeting? A. I don't know.

Q. Why? A. He was a disguised man. I did not k his face, nor his voice, nor anything else about him.

Q. You tell us at this time that you don't know who he w A. I don't know who he was positively.

Q. You know only those two? A. I think probably I have known more than that at the time, but I don't reco them just now. There was nothing special to call my atten to it, and I havn't thought about it since.

Q. What was done at that meeting? A. I, with s others, was initiated. That was all that was done that I r lect there.

Q. Are you sure there were any initiated? A. I am was initiated.

Q. How many? A. This man Lineberry was initiated.

Q. Who else? A. I don't recollect—probably there w others, but I could not say positively.

Q. You cannot say whether there was more than one iated? A. Yes, sir, I think there were others, but I don' collect their names.

Q. How many more do you think were initiated? A. I think two others. I don't recollect, it might have been a Younger or a Blanchard.

Q. Do you mean Jeff Younger? A. It might have been Jeff Younger or F. U. Blanchard—it may have been both of them. I don't recollect now.

Q. Your memory being refreshed now do you think it was those two men? A. It might have been.

Q. Do you think they were? A. I know they were initiated into the order, but I don't know whether it was that night or not.

Q. Did you have any other meeting? A. Yes, sir, there were several others.

Q. Where was the next meeting? A. I don't recollect the the exact point—somewhere not very far from that, in the woods usually.

Q. How long after the first meeting? A. Well, we had meetings——

Q. I don't ask how often they had meetings. How long was this after the first meeting? A. I don't recollect—probably in a week.

Q. You say distinctly you do not recollect? A. I do not.

Q. Can't you recollect whether it was a month? A. It was not a month.

Q. You are sure of that? A. I am sure it was not a month.

Q. Whereabouts was that? Was it in the woods? A. In the woods some where—not very far from the same place.

Q. How far do you think? A. Well, it might have been a hundred yards.

Q. Wasn't it one of your rules not to meet at the same place twice? A. Yes, sir, that was the way I understood the rules. We didn't meet at the same place I know.

Q. Do you think it was only about a hundred yards off? A. It might have been that, and it might have been further.

Q. I know—it "might" have been a mile; but I ask you

whether it was a hundred yards off. A. I couldn't recolle was in the same section.

Q. Do you say it was a hundred yards off? A. I could say positively it was just a hundred yards.

Q. I don't ask you that. Do you think that it w hundred yards? A. It might have been two hundred y I don't think it was a quarter of a mile.

Q. Who was there? A. I don't recollect the names of parties.

Q. Don't recollect any of them? A. Well, some of same parties were there that were there before. I don't r lect the names. There was nothing special to call my atten

Q. I am asking you about names now. You cannot r lect any of them, can you? A. I think probably Blanchard there, and probably Younger and Jeffries, and there m have been a Hurdle. I couldn't say who were there.

Q. What did you meet there for at that time? A. Initi some other members.

Q. Who was initiated? A. I don't recollect. It m have been one of the Mr. Blanchard's, but I don't reco anything distinctly about it. I attended several meetings.

Q. Don't recollect anything distinctly at all? A. N don't recollect distinctly any one man at any particular mee I know they were initiated at some time.

Q. I ask you what you met there for? A. For the pur of initiating some other members.

Q. That was all, was it? A. That was what I underst

Q. Did you talk over any business matters? A. Notl but that.

Q. Did you initiate? A. I did after the first meeting initiated some.

Q. What position did you hold in that camp? A. I was called chief.

Q. You were chief of the camp? A. So-called, yes, sir.

Q. Oh, well, tell us how many you had in your camp—being chief. A. I don't know how many.

Q. As near as you can? A. Fifteen or twenty members, perhaps.

Q. Perhaps there were a great many more. A. Not that I know of. I don't think there were more than twenty in my camp.

Q. When was your next meeting? A. I don't recollect dates.

Q. How long after the one you have just spoken of? A. There were two or three meetings held in pretty quick succession there, and that is about all I attended. I don't recollect that there was more than a week or two difference between the meetings—any of them.

Q. I want your best recollection about it. A. That is my best recollection of it

Q. You attended two or three meetings? A. In pretty quick succession.

Q. Didn't you attend more than two or three meetings? A. I think not.

Q. Give us the history of the last meeting? A. Nothing special about it, that I know.

Q. Give us the history of it. Where was it? A. It was in an old field about a quarter of a mile from my house in a pine thicket not very far from Col. Gant's. There was an old field around and some pines adjoining.

Q. Were you in among the pines? A. We went in among the pines.

Q. Was Mr. Gant there? A. He wasn't there.

Q. Tell who was there at that time. Name every one you can? I don't recollect distinctly who was there. There were but four or five members present that night. I don't think there was anything done. It was appointed for some to be initiated and the parties did not come. The meeting broke up and adjourned—there was nothing done.

Q. You were the chief—did you appoint the meeting? A. It was appointed at the last meeting.

Q. Was Archibald Lineberry there? A. I don't think he was there.

Q. Was George Mebane that? A. No, sir.

Q. Was William Andrews there? A. No, sir.

Q. Was John Gant there? A. There were two Gants there—I don't know which you allude to.

Q. Was any John Gant there? A. John Gant might have been there but I don't recollect distinctly whether he was or not.

Q. You cannot tell? A. No, sir.

Q. Was Fred. Blanchard there? A. I think he was, and I think Jefferson Younger was there too. I don't think there were but four or five at that meeting.

Q. Was Henry K. Hurdle there? A. I don't think he was there at that meeting. I think Jeffries was there.

Q. John Jeffries there? A. I think he was.

Q. Do you recollect any other? A. Yes, sir, there was a young man, Garrison, there; that is all I recollect.

Q. Was John W. Long there? A. No, sir, he was not there.

Q. Did you ever meet him in camp? A. Not that I know of. If I did he was disguised and I did not know him.

Q, Who was the chief at this time? Had Jeff. Younger been elected then at this last meeting? A. Been elected as what?

Q. To be chief of the camp. A. He never was that I know of.

Q. Did Jeff. Younger belong to your camp? A. Yes, sir, he belonged to my camp.

Q. How many camps were there in the county? A. I understood there were ten, sir. I don't know anything about it of my own knowledge.

Q. Do you state that? A. I do.

Q. Why, didn't you meet with the other chiefs? A. I never did. I never was at another camp in my life.

Q. I understood there was a large meeting down at Haw

river there one time, when there were about two hundred present. Were you there? A. I was not there.

Q. Do you know the signs and passwords? A. I probably did at the time, but I don't know them now.

Q. You cannot tell any of them? A. No, sir.

Q. Maybe you can tell some of them? A. I never attended a meeting outside of my own camp in my life.

Q. That is not what we are talking about. I ask you if you can tell any of the signs now? A. I think one of the signs as well as I recollect—there was some sign about passing the hand over the lappel of the coat. I never gave one and never received one.

Q. When they wanted to get into the camp how did they get in? A. Well, there were three slaps of the hand. That was when there was a meeting appointed somewhere. Two or three I forget which.

Q. You say at the last meeting there were a good many that you did not know? A. No, sir, there were four or five there, and I knew them all at the time but I don't recollect the rest.

Q. You have told of four. A. I have told you of all I recollect.

Q. Were there not some that you havn't told us? A. I told you that there might have been some there that I don't recollect. I knew them all at the time.

Q. When you had a meeting didn't you ascertain everybody that was there? Hadn't the chiefs to see that everybody was all right? Wasn't that one of your rules? Didn't you take care that there should be none but Kuklux present? A. I understood they were all belonging to the thing, that were there.

Q. Didn't you ascertain that always before you went to business? A. We always saw them, I suppose, and knew by some member whether they belonged to the order or not.

Q. You say you didn't go to any but the three meetings? A. I don't recollect distinctly how many I went to.

Q. You don't? A. No, I don't recollect exactly. I think

to the best of my recollection that is about as many as I tended.

Q. About as many? A. I think that is all, sir.

Q. Do you tell this court now that you cannot fix any nea the time? A. Any nearer which?

Q. The time that you joined and these meetings that t place. A. It was warm weather, 1868. I don't recollect w day and I don't even recollect the month. There was noth to call my attention to it specially.

Q. Are you certain about the year? A. Yes, sir, it w the year 1868, I think.

Q. Now just tell us why you think it was that year. Wh makes you fix upon 1868? A. There is nothing special call that to my attention except I know that, as I understa the thing was dissolved, and so far as that party I had g with was concerned, it was dissolved in 1869—in the spri of the year.

Q. Wyatt Outlaw was hung since that by the Kuklux? I don't know who he was hung by—I don't know anythi about that.

Mr. GRAHAM. That is not the proper mode, I think, examining a witness.

Mr. BOYDEN. I think it is very proper, if a witness a as this man does.

Q. [By Mr. Graham.] You were speaking of the ti when this institution was dissolved?

Q. [By the Chief Justice.] What year did you join? I think it was the year the presidential election was.

Q. What makes you think it was that year? A. I thi there was a barbecue or something in the county in that ye

Q. That was in the fall, was it? A. I don't recollect t date.

Q. But you can tell us whether they had any barbecues the presidential election—in the fall? A. There were two the county I think.

Q. Tell us when they were? A. I don't recollect the da

Q. I ask you if one of those was not just before the presidential election—a few days before? A. I don't recollect the date.

Q. I don't ask the date, I ask if one of the barbecues was not a few days before the presidential election? A. There were two barbecues there.

Q. Where were they? Perhaps we can fix the dates by somebody else? A. They were in Graham.

Q. Both in Graham? A. In the suburbs of Graham.

Q. You say you cannot recollect? A. I cannot recollect the date.

Q. Do you recollect when the presidential election was? A. In November, I think.

Q. Now I ask you if it was not in the month before that—as late as that, anyhow? A. It might have been. I could not say.

Q. I know it "might have been," but I ask you if you do not think it was? A. I do not know.

Q. I ask you if you don't believe it was as late as October? A. It might have been; I could not say. I don't know, I tell you, what date it was. I don't know the month. It was warm weather—I recollect that very well.

Q. I ask you now, upon your oath, if you don't know it was within one month of the presidential election? A. I could not say—it might have been.

Q. I know it might have been. Answer my question—whether you don't know it was within a month? A. I say I don't know.

Q. Who had the barbecue? What was the object of it? A. Well, there were two parties had barbecues there. I think the republican party had one.

Q. What was the object of this barbecue which you just spoke of? A. I suppose it was political.

Q. Did it have anything to do with the presidential election? A. I think that was the object of it—to control the politics. I

think the first one was held by the party known as the Leag party in Graham.

Q. That was the first one. How long after that was t other one? A. I do not recollect, sir.

Q. You must have some idea? A. It might have been month—I cannot tell how long it was.

Q. State if you have ever seen any men disguised except these meetings which you have spoken of? A. Yes, sir, I s some one night.

Q. Tell us where that was? A. At my house.

Q. How many were there? A. I think there were seven.

Q. What time was that? A. I don't recollect that da sir,

Q. Get as near as you can? A. It was in the winter, suppose probably, 1868, or in the spring of 1869. It was co weather, I recollect.

Q. Who was there? A. I don't know—I didn't know o of them.

Q. Tell us how they came to your house, and what to place? A. They came to my house and made a noise at t door—knocked at the door, I think. I was in bed asleep a got up and asked who was there, and they told me to op the door; and I finally, after some hesitation, when they ke shaking at the door, and they told me if I didn't open t door they would break it down, I opened the door.

Q. Then what? A. They asked me a great many questio in the meantime, and they asked me if I hadn't anything drink. I told them I had some water.

Q. What else did they tell you? A. They asked abo some places and distances.

Q. What places did they enquire after? A. They want to know how far it was to Petersburg and to Hillsboro'.

Q. You tell us you don't know one of them? A. I do know one of them.

Q. Did they give a sign? A. They gave no sign at all- kept shaking the door. I was asleep when they came.

Q. You didn't know their voices—any of them? A. There didn't but one man speak. I didn't know anything about him. I think there was but one man done any speaking.

Q. They asked you no questions except those you stated? A. I don't recollect distinctly. I probably knew at the time. They asked me a good many foolish questions. I reckon I gave them something to drink. I know I did.

Q. Did they take off their disguises to drink? A. They did not.

Q. Did you see any at any other time? A. I think at one time again they passed there, a few of them—four or five.

Q. When was that? A. I don't recollect that. It was before this time I have just spoken of.

Q. Tell us near the time? A. I don't know what time it was.

Q. Was it in the night? A. In the night.

Q. What time of night? A. I don't know. It was ten or eleven o'clock, perhaps.

Q. They seemed to understand you were a Kuklux, did they? A. I don't know what they understood. They asked me if I was sheriff of the county.

Q. What did you tell them? A. I told them yes.

Q. What else did they say to you? A. They asked me if I was oppressing the people in the way of collecting taxes. I told them I hadn't done very much of that.

Q. What else? A. I don't recollect anything else.

Q. Were you sheriff then? A. I was sheriff at that time.

Q. Why didn't you take them up, if you were the sheriff? A. There were too many of them for me to undertake it. I was just by myself.

Q. What was your reason? A, That was my reason. In fact there was no law that I recollect at that time that I should take them up by. They seemed to be not doing any damage to anybody.

Q. One you think was in the spring of 1869? A. I told you I didn't recollect, it was in the winter or spring of 1869.

Mr. MERRIMON. He said the winter of 1868 or 186
fore

Mr. BOYDEN. He said in the winter of 1868 or the sp
of 1869.

The WITNESS. That is what I said.

Q. What time in the spring of 1869 was it, if it was in
spring? What were you doing there, what work? A. I
manufacturing. I was attending to my business as a man
turer at home.

Q. Perhaps you can tell what kind of farming was going
A. I was not a farmer.

Q. Perhaps you can tell what kind of farming was going
A. I don't know, I am not interested as a farmer particular
it is true I have some farming carried on.

Q. Had you got the tax list then? A. I think not. I d
recollect that I had.

Q. Do you recollect that you had not? A. I had it for
year before, sir—a great deal of the taxes remained unpaid
the year before.

Q. I ask you if you had it for that year? A. No, s
think not, I don't recollect, I never got it till very late.

Q. Had the list-takers at that time been out? A. I d
recollect about that distinctly.

Q. Wasn't it your business to serve notices upon them?
No, sir, I think it was the business of the clerk of the boar
issue notices to them—in his own way.

Q. Did you serve them? A. I don't think I did, sir.

Q. You cannot fix the day at all? A. Not at all.

Q. Do you know of anybody that has been chast
scourged or whipped by the Kuklux? A. Not of my
knowledge, sir.

Q. Haven't you seen any that have? A. I haven't seen
except I have seen parties that said they had been.

Q. You have not seen their persons? A. I have not s
their naked person.

Q. Where were you the night Outlaw was hung? A. At home.

Q. Where do you live? A. I live in Alamance.

Q. You don't live in Graham? A. I don't live in Graham.

Q. How far from there do you live? A. Four miles.

Q. How soon did you hear of his hanging? A. I heard it the next morning--I don't recollect--probably nine o'clock.

Q. What did you do? A. I went to Graham.

Q. Wasn't you there a week before taking tax-lists? A. Not particularly taking tax-lists that I know of.

Q. What day in the week were you there before? A. I was there on Saturday. I recollect distinctly.

Q. The very day of the night he was hung? A. He was hung that night I understand. Yes, I know he was.

Q. What time did you leave there that night? A. I left there about night as well as I recollect—I don't recollect the hour.

Q. Did you see any of the Kuklux that night? A. I saw none at all—not one.

Q. Did you see any disguised people? A. Nary one.

Q. How many did you see about that night that you knew belonged to the Kuklux? A. I never saw anybody that I recollect that night from the time I left Graham.

Q. But before you left Graham? A. I don't know anybody outside of my own camp.

Q. Did you see any of them there—of your camp? A. Not that I recollect distinctly.

Q. Try and refresh your memory? A. Not that I can recollect at all. If there were any of them I don't know now. It was not brought to my notice.

Q. Tell what you know about a coffin being put out at McAdam's? A. Nothing but what I heard.

Q. Do you say that? A. I say that.

Q. I ask you if you don't know something about it yourself? A. Nothing but what I have heard.

Q. Have you seen the coffin? A. No, sir.

Q. Have you seen the paper that was put there? A. never heard of a paper being made.

Q. Have you heard any of the Kuklux say anything ab that? A. I never heard any of them say that they put it th nor anything about it.

Q. Don't you know who made it? A. Only from wha have heard.

Q. Did you hear it from the Kuklux? A. I never hear till Kirk and Burgen came there, and then I heard he brou it there for something.

Q. You did not hear it from a member of the Kuklux? That is all I know about it.

Q. Didn't you say Jeff Younger belonged to your can A. He did at the time. I dissolved my connection with t order before the coffin was made.

Q. How long before? A. I don't recollect.

Q. How did you dissolve it? A. I told them that I was longer a member—that I had heard some things being char to the party that I did not approve, and that I could not consi myself as any longer belonging to the order.

Q. Who did you tell that to? A. I think Younger, Jeff Hurdle and others.

Q. Where was that? A. I don't recollect the day. It in the winter I suppose of 1868 or 1869.

Q. Do you think it was 1868? A. It might have been the spring of 1869.

Q. I ask you what your belief about it is? A. That is belief.

Q. Were you not sheriff then. Just tell us that? A. I sheriff in the spring of 1869.

Q. When were you qualified as sheriff? A. In Septem 1868.

Q. And you continued in the organization until the spr of 1869, and then told them you could not have anything m to do with it? A. I don't recollect the day.

Q. You have stated it was in the spring of 1869—you do

take that back? A. I tell you I don't recollect the date—it might have been in the fall, and it might have been in the spring. I was in but a very little time; I recollect that distinctly.

Q. Do you want to take it back about the spring of 1869? A. I didn't say it was the spring of 1869.

Q. You think that way now, do you? A. You said that; I said it might have been.

Q. You didn't say it any stronger than that did you? A. I don't think I did.

Q. I ask you again most emphatically? A. I say it was in the winter or spring of 1868 or 1869.

Q. I asked you most emphatically, and put it at you time and again, if you did not know it was in 1869, and what was your answer? A. I don't know that it was.

Q. You state that now? A. I state that now. I don't know whether it was 1868 or 1869.

Q. Didn't you say you believed it was in the spring of 1868? A. You might have led that out of me. I don't recollect.

Q. I admit I am trying pretty hard to get the truth out of you. A. Probably you will get it.

Q. [By the Chief Justice.] How long after that was it that you were a member? A. Probably two or three months after that. I don't recollect.

Q. And then after you were sheriff of the county you continued in this organization three months? A. I could not say it was three.

Q. Ah! you take that back, do you? A. I take nothing back that I say.

How many do you say it was now—I ask you if it was not more than four? A. No, sir.

Q. Do you say that? A. I say that.

Q. Do you say it was less than four? A. I don't know the exact date. I cannot say.

Q. Perhaps it was five? A. I have said it was not more than four.

Q. You are positive about that, are you? A. I have said it, sir.

By the CHIEF JUSTICE:

Q. You say you were elected in September? A. Ye

Q. Was it christmas or before christmas that you le organization? A. I think it was about christmas.

By Mr. BOYDEN:

Q. That you joined the order? A. No, sir, that I qui

Q. You have got back to christmas now, have you? A. is what I say.

Q. How did you happen to say it was in the spring of A. I did not say it was.

Q. You said you believed it was? A. I said it was fall or spring.

Q. What makes you change your notion? A. I hav changed it at all. I am of the same opinion still. I tell don't know the dates.

Do you state here that you are of the same opinion th were when you said it was in the spring of 1869? A. not say positively that it was in the spring of 1869. I was in the fall or spring. I did not recollect the date.

Q. I understand you to say that you are of the same ion you were when you first answered—do you say now was in the spring of 1869? A. I said it was about chri I thought as well as I could recollect and I don't recolle date. I am of that opinion still.

Q. Can you tell us your opinion as to the month in you joined? A. I cannot. I don't know the month. was nothing to call my attention to it.

Q. Who was president of the United States at the tin withdrew? A. Andrew Johnson I understood to be th ident.

Q. When you withdrew? A. When I joined I unde you to ask.

Q. I asked you who was president when you withdrew I think he was president.

Q. What makes you think he was president then? A. I have nothing special except I know that he was.

Q. Did you have any talk with Henry Badham about Henry Holt? A. Never.

Q. I ask you this question, did Major Badham ask you what could be done for Henry Holt—that he had been ordered to leave the county, and if you didn't tell Badham he had better leave the county? A. I never have to the best of my recollection.

Q. Did you ever have any conversation with him about Henry Holt in any shape? A. Never in the world.

The CHIEF JUSTICE. You will have to state time and place if you intend to contradict him.

Q. In the town of Graham just after Holt was whipped? A. Never in the world at no time and no place.

Q. Tell us if you know anything about a certain paper being thrown into Badham's yard? A. I never did, only what I have heard.

Q. Did you hear it from a Kuklux? A. It was just common rumor. I don't know whether it was a Kuklux or not. I don't know who told me, and I know nothing in the world about it.

Q. I don't ask you for it unless you heard it from a member of your order? A. I don't know anything about it. I don't know whether any member ever told me so or not. I heard it as common rumor. I could not name any man who told me so.

Q. Who was chief of your camp after you left? A. I don't know.

Q. You state that, do you? A. I state that. There were other officers.

Q. Who was chief of the county? A. Jacob Long, I understood was the chief.

Q. Was he chief when you joined? A. I so understood.

Q. Do you know any of the other officers of the camp? A. I don't know any others at all.

Q. It is said there was a large number paraded at on in Graham. Do you not know anything about that parade? A. Only what I have heard.

Q. Did you hear it from any member of the organi A. Not that I recollect—it was common rumor.

Q. What time was that large gathering there? A. recollect the date.

Q. Can you tell the year? A. No, sir, I cannot e the year.

Q. Can you tell the season of the year? A. I don' the season—there was nothing special to call my atte it. I heard of no outrage being committed.

Q. You didn't try to find out or arrest any of the that went about in those disguises? A. I did not.

Q. I ask you if you do not know it was as late as 1870 when this large gathering was there? A. I don' lect.

Mr. MERRIMON. I have heard nothing of tha gathering you talk about.

Mr. BOYDEN. Some of us have.

Mr. MERRIMON. But it is not evidence.

Mr. BOYDEN. I think you are mistaken about tha

The CHIEF JUSTICE. A large gathering where?

Mr. BOYDEN. A large gathering of the Kuklux town of Graham.

The CHIEF JUSTICE. Disguised men?

Mr. BOYDEN. Yes, sir. We call disguised men K

Mr. BRAGG. But not in 1869 or 1870.

Mr. MERRIMON. The gentleman called the atten the witness to a meeting at which two hundred Kuklu present. There has been no evidence about that.

Mr. BOYDEN. This was another meeting down Haw river.

Mr. BRAGG. I think it is a useless consumption o We all know that the raid was made in the spring of 18 is not worth while to magnify it in one way or the other

Senator WORTH. I would call the attention of the counsel to the rule in reference to discussions.

Mr. BOYDEN. I am not discussing, I am only stating the object of the testimony. That is, to fix the time and to show that it was after this act making it an offence for men to go disguised that this witness saw these men, and made no effort to apprehend them.

The CHIEF JUSTICE. You had better go on with the examination. You are burning daylight to very little purpose.

Q. You said you were sheriff of the county when Outlaw was killed, and you came up there on Sunday morning? A. I was.

Q. Did you see a great many tracks of horses there? A. Well, I don't recollect that I noticed an unusual amount of them more than there were generally up around the court house.

Q. You did not try to follow any? A. I did not.

Q. Did you hear that there had been a large body of armed men there that night? A. I heard it next day.

Q. Did you attempt to follow them and track them up? A. I did not.

Q. Why didn't you follow them and try to track them up? A. I thought it was perfectly useless.

Q. You know that, being a member of the order? A. I was not a member at the time.

Q. And being a member—I suppose that is the ground on which you give that opinion? A. No, sir.

Q. What makes you say it was perfectly useless? A. They had dispersed, and I suppose the men had got home, wherever their homes were.

Q. You didn't make any attempt to follow them? A. I was wanting on the coroner's inquest.

Q. You didn't make any attempt to follow them that day or any other day? A. I did not.

Q. Did you make any inquiries about them? A. I was waiting on the coroner's inquest, and the inquiry was made there.

Q. Did you try to find out which way they went?

Mr. Manager SPARROW. He said he didn't, sir. many times do you want to ask him?

Q. Did you make any inquiries as you went home, o road? A. I don't know that I saw anybody to inquire of

Q. At any time did you make any inquiries? A. I inquiries at different times. After the inquest I cannot lect any name particularly that I inquired of, but I was in ham frequently—every day for some time.

*Cross-Examination.*

By Mr. GRAHAM:

Q. You have been sheriff, you say, since September, 1 A. September, '68.

Q. Have you ever found any difficulty in executing any cess during the time you have held the office? A. Never,

Q. Have you ever found it necessary to take to your aid assistance in making arrests? A. Never.

Q. In regard to this organization that has been spoke have you ever had any active connection with it since you h been in the office of sheriff? A. Nothing at all sir.

Q. Since you have been in the office of sheriff have attended a meeting at all? A. I think possibly I may h attended one.

Q. Which was that? A. Some meeting near my house. don't recollect distinctly as to the date.

Q. You attended but a single one since you have bee office, you say. You gave notice then to the organization t there were crimes imputed to them which you did not int to justify, and that you would have nothing to do with it. I did, sir.

Q. And you say that you were informed by the chief of klan that he had dissolved the organization in the spr or summer of 1869? A. I understood that was so, bu didn't know anything about it, and I didn't belong to the or at that time.

Q. Did you ever fail or refuse in any way to execute proc

by reason of any favor you were disposed to show to that organization? A. Never in the world, sir.

Q. State whether your obligation as a member of the order bound you to do anything inconsistent with the laws of the United States or the state? A. Nothing in the world that I understood, or I would not have taken it.

Q. You say that at the time Outlaw was murdered, as soon as you heard of it you went down at the request of the coroner? A. I went immediately.

Q. You remained at his request? A. I remained until the inquest closed.

Q. Waiting on the investigation? A. I was present all the time looking at the evidence.

Q. You say that after that repeatedly you made inquiries with a view to see if any discovery could be made as to the persons who murdered Outlaw? A. I did, sir.

Q. You were not able to make any such discovery as authorized you to make any arrest? A. There was nothing that came to my knowledge that would have authorized me to make any arrest.

The hour of two o'clock and fifty minutes having arrived, the court adjourned till to-morrow morning at eleven o'clock.

## THIRTY-FOURTH DAY.

SENATE CHAMBER, March 10, 187

The COURT met at eleven o'clock, pursuant to adj ment, Hon. R. M. Pearson, Chief Justice of the Supreme C in the chair.

Proceedings were opened by proclamation made in due by the doorkeeper.

The CLERK proceeded to call the roll of senators, an following gentlemen were found to be present:

Messrs. Adams, Albright, Allen, Battle, Beasley, Bell Brogden, Brown, Cook, Council, Cowles Crowell, Da Edwards, Eppes, Flemming, Flythe, Gilmer, Graham, of mance, Graham, of Orange, Hawkins, Hyman, Jones, K Latham, Ledbetter, Lehman, Linney, Love, Mauney, Clammy, McCotter, Merrimon, Moore, Morehead, Mur Olds, Robbins, of Davidson, Robbins, of Rowan, Skinner, Sp Troy, Waddell, Warren, Whiteside and Worth—46.

Senator GRAHAM, of Orange, moved to dispense with reading of the journal of the proceedings of yesterday.

The CHIEF JUSTICE put the question on the motic Senator Graham, and it was decided in the affirmative.

ELI S. EULISS, *a witness called on behalf of th spondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. Where do you reside? A. Alamance county.

Q. What is your age? A. twenty-two.

Q. Occupation? A. I am a school teacher.

Q. They call you captain, why are you called captain? I was captain in the confederate army.

Q. Did you belong to either one of these organizations, White Brotherhood or the Constitutional Union Guards? Yes, sir, I belonged to the Constitutional Union Guards.

Q. Just commence at the time you joined it and state what you know about it? A. If I am not mistaken I joined it in September, 1868.

Q. Just start from that and tell all that you know in regard to that organization, who initiated you and all about it? A. A gentleman was introduced to me as Captain Watt, he initiated me.

Q. Where was he from? A. I think he was from Egypt, or near Egypt, North Carolina.

Q. (By the Chief Justice.) In Chatham county? A. Yes, sir, I think so.

Q. Was he accompanied by any body? A. There was another gentleman accompanying him, I do not recollect his name, I know I had an introduction to him.

Q. This was the Constitutional Union Guard, not the White Brotherhood? A. Yes, sir. He initiated us not in the usual way in fact, but initiated us by reading the obligations and forms and ceremonies, &c., giving such instructions, I suppose, as was usual to be given at the time of the initiation.

Q. What was the obligation? A. I don't recollect it verbatim.

Q. Give the substance of it? A. In the first place there was an obligation to keep what had transpired or what might transpire if we did not identify ourselves with the order. That was our obligation in the first place outside of the main obligation,

Q. To keep what had come and what would come to your knowledge secret? A. If we failed to identify ourselves with the order. I am sure I can't repeat the obligation, but I can give the points.

Q. Wasn't this in the obligation to aid, patronize and encourage members of the order? A. It was to aid, patronize and encourage members of the order in preference to all others.

Q. That was one part of it? A. Yes, sir.

Q. Now about obedience to orders? A. And to obey officers in all matters pertaining to the interests of the order.

Q. What with regard to constitution—and constit rights? A. It was to resist by force of arms if necessa attempts forcibly to deprive us of our constitutional o rights.

Q. What constitutional rights did that refer to in the A. Well, sir, I can't tell you.

Q. I mean was it the constitution as it was before th amendments or the constitution as amended? A. We had no explanation upon that, I never had in my life. I tell—I suppose that was left open for every man to put hi construction on. I give you the language and I am no taken in regard to it. That was the language in that cla

Q. Wasn't it the generally understood received mean the oath that you were to resist any attempt——

Mr. GRAHAM. We object to understandings.

Q. [By the Chief Justice.] What was the use of any unless it was to maintain your right under the constit What did you take such an oath for?

Mr. BADGER. I will ask the witness a question tha bring that out.

The WITNESS. I don't know that there was any use order at all.

Q. You say this order was brought into Alamance in tember, 1868? A. Yes, sir, I think it was.

Q. That was during a political contest? A. Yes, sir.

Q. Was not one of the main questions involved in tha test whether or not what were called reconstruction o amendments to the constitution should be made perma A. I believe it was.

Q. I ask you now, was not one of the objects of that to resist the adoption of those new amendments to the c tution or making them permanent in the constitution? can't say that it was.

Q. Wasn't that generally understood among the mem A. I don't know. I have had very little conversation wit members in regard to the construction.

Q. Wasn't that your understanding from the man who initiated you? A. He gave us no such instructions.

Q. was not that in the oath? A. I think not.

Q. "The Constitution as it was"—wasn't that in the oath? A. I think that was in some part of the ceremony.

Q. Well, I mean in that oath, ceremony or instructions—was not the idea presented that you will resist by force of arms any attempt to deprive you of your constitutional rights under the constitution as it was? A. That idea was presented somewhere in the order but I think not in the obligation.

Q. That was in the explanation or the oath? A. This language existed somewhere: "The constitution as framed by our forefathers." That language existed somewhere; I could not locate it now.

Q. Then you said you would resist by force of arms any attempt to deprive you of your constitutional rights? A. "Constitutional or legal rights;" that is in the oath.

Q. And afterwards in some part of the ceremony "The constitution as your forefathers had framed it?" A. I don't know whether it was afterwards or before.

Q. Well, at some part of it—about obeying calls of distress? A. We were to obey the call of distress—the word or sign of distress when a comrade or his family were in need of it, or were in distress if in our power to do so.

Q. What sort of distress did that mean? A. Well, in a riot if a comrade got into difficulty with anybody, or in any way whatever.

Q. You were to come to his assistance? A. To come to his assistance, yes, sir.

Q. If he got into any difficulty whatever, you were to go to his assistance? A. Yes, sir.

Q. Was it without regard to whether he was rightfully in a quarrel or not? Suppose he gave you a call what was the effect of this obligation you took? A. Suppose he did what?

Q. I say without regard to whether he was rightfully in a quarrel or not, or whether he was about to be oppressed or not?

A. I understood that not to require a man to risk anything in that way, that was binding no more than j mutually agreed to by the organization.

Q. To help each other? A. Yes, sir.

Q. Please state where your klan met. Was there struction as to where the klan should meet? A. No, at all.

Q. Was there any instructions that you were not more than once at the same place? A. Well, exc klans I believe rather adopted that rule.

Q. Not to meet more than once in a place? A. often in the same place.

Q. Where did you meet? A. Well we usually me woods close to a road, though at some noted place there would be no difficulty in finding it. There wa rock that we met at I believe about as often as we where. I did not meet the klan many times. it wa miles off.

Q. What disguises were worn by the "Const Union Guard?" A. They were black gowns, that the klan wore that I belonged to. There was no disguise to be worn.

Q. No special disguise prescribed by the regulatio No, sir.

Q. Was there any regulation requiring that you sl disguised? A. No, sir, there was none.

Q. But you used a black disguise—the klan t belonged to? A. Yes, sir, used this disguise for i purposes.

Q. What was the nature of it—what kind of a disg it? A. It was a large loose gown and a black cap w up sharp and come down and covered the face.

Q. It went to a point like a cone? A. Yes, sir.

Q. And come down and covered the face? A. Yes

Q. Any opening for the eyes? A. Eyes and mouth;

Q. Any fringing around the eyes at all? A. Yes,

was just according to the taste—just as the man wanted to be disguised.

Q. What were the officers of that order? A. South commander, west commander, north and east commander, conductor, outside and inside guard, secretary and treasurer.

Q. Which was the highest office of the klan? A. The south commander.

Q. Which was the next? A. The west commander.

Q. The next? A. I don't remember whether it was the north or east.

Q. What name did you go by in public? A. What, the organization?

Q. Yes—were you known in public at all? A. I don't know that we were.

Q. Did you let people know you belonged to the order? A. No. sir.

Q. Were you required to keep that fact secret? A. Yes, sir.

Q. Why were your sub-divisions called klans? A. I cannot tell you that.

Q. That was in the instruction? A. That was in the by-law denominated the klan.

Q. Who was the chief of your county? A. James A. J. Patterson being the commander of the first klan organized, was entitled as the chief officer in the county. That is the only thing made him hold that position.

Q. He was chief of the senior Klan, and of the organization in the county? A. Yes, sir, he was not known as "chief"; he was known as commander of the senior Klan. He was the highest officer in the county. There was no such name as "chief" known in the organization.

Q. He was south commander of the senior klan in the county? A. Yes, sir.

Q. How many members were there in your klan—were you commander of a klan? A. After that I was.

Q. South or north? A. North.

Q. I meant what commander were you? A. I was so commander at the time.

Q. You were the highest officer in a klan? A. At one tim yes, sir,—the next klan that was organized in the county.

Q. How long were you? A. I don't recollect—for tw months probably.

Q. How many members were there in your klan? A don't remember that. We kept no list.

Q. About how many? A. Well, twenty I should say; is as many as I ever saw and helped initiate.

Q. While you were a member you don't recollect hav seen or to have initiated more than twenty? A. No, sir.

Q. At what time were you chief of that klan—when did begin to be—you say you were twelve months from Sept ber, 1868, to September, 1869? A. No, sir, I was not c then; that was the first klan that was organized. Tw months from that time probably there was another klan, or months probably; I cannot recollect exactly. Some time af wards there was another klan organized, and I was made so commander of it.

Q. Where was it located—what territorial limits did include? A. The township I lived in.

Q. Which township was that? A. Coble's township.

Q. How far west of Graham is it? A. Ten miles fr where I lived. The township extends towards Graham? don't recollect how long I was commander. I stated awl ago probably twelve months.

Q. How many klans were there in the county of Alaman A. Well, to my own personal knowledge ——

Q. What you know personally, or what you know from t ing with a chief, or any members of a klan? A. To my o personal knowledge I don't think I know but two, but the believe there were others by talking ——

Mr. GRAHAM. You need not state from reports.

The WITNESS. The first klan I was initiated into and the next one I was made south commander, those two I kn

Q. Those were the only two you were ever in? A. Yes, sir.

Q. Did you talk to the chiefs of any other klans? A. I don't know that I ever have. I have talked with gentlemen that belonged to the organization, but then I don't know that they were chiefs.

Q. Did you have any signs and pass words? A. Yes, sir.

Q. What were they—what was the sign? A. Well, the sign of recognition was to be the lappel of the coat in this way and pass the right hand over and under [illustrating.] This was another sign. [The witness passed both hands clasped over the head backward and forward again, and spread out the thumbs.] It was the sign of distress. The word, when the sign of distress could not be given was "ahoy."

Q. Any of these men with whom you conversed belonging to other klans—did they ever give you a sign of recognition? A. I never received the sign in my life, and never gave one.

Q. Did you know these men to be Constitutional Union Guard with whom you conversed with regard to the members of klans in the county?

Mr. BRAGG. I object to that. What members told him is not evidence. It has been so ruled two or three times.

Mr. BADGER. We cannot say anything under the rule, Mr. Chief Justice, except to state our proposition. I ask the witness whether or not the men he conversed with regard to the number of klans in the county with members of the Constitutional Union Guard. I intend to follow that up with another question—how many klans did the persons say there were and how many members there were in the county.

The CHIEF JUSTICE. He can answer that.

Mr. GRAHAM. We submit that a conversation with a person who is not proved to have been a member except by what he said is not evidence.

Mr. BADGER. It depends upon the organization itself. I don't know anything about it.

The CHIEF JUSTICE. The witness can answer the question.

Q. Did you know these men to be members of the org ization? A. Yes, sir.

Q. What did they say with regard to the number of kl in the county?

Mr. GRAHAM. I object to that.

Q. [By the Chief Justice.] Did they say that they had any meetings? A. Yes, sir.

The CHIEF JUSTICE. Then you can answer the quest

A. I conversed with Mr. James A. J. Patterson.

Q. Chief of the county? A. Yes, sir.

By Mr. BADGER, [resuming:]

Q. Chief of the county? A. Yes, sir, he told me that formed two or three klans in the county. I remember tw three or more klans in addition to what I have mentioned.

Q. Did he state how many individual members belonge the order in the county? A. He did not.

Q. Did you hear that from any Constitutional Union Gua man?

Mr. MERRIMON. We object to that.

The CHIEF JUSTICE. I did not hear the question.

Mr. BADGER. I will change my question and ask witness if he had conversations with members of diffe klans in the county, and if they had told him how many m bers there were belonging to klans in the county?

The CHIEF JUSTICE. Each respectively?

Mr. BADGER. Each respectively in his own klan.

The CHIEF JUSTICE. The witness may answer that.

A. I don't know that I ever did.

The CHIEF JUSTICE. Each man accounting for his klan.

Q. With any one as to the number that was in his klan? I don't know that I did.

Q. You have never heard any man say the number of m bers in his klan? A. No, sir.

Q. Do you remember the chiefs of the klans in the coun Was Jasper N. Wood chief of a klan? A. Not that I rem

ber—not to my knowledge. I never had any conversation with him upon the subject in my life.

Q. Do you know the south commanders of any other klans? A. I know who was south commander of the klan I was commander of.

Q. Who followed you? A. John T. Fogleman was the last south commander I recollect.

Q. John T. Fogleman? A. Yes, sir.

Q. Who else do you know as south commander in the county? A. James A. J. Patterson. That is all I know.

Q. You don't know the others at all? A. No, sir.

Q. How came you to leave the klan? A. I didn't leave. I was not re-elected any more. I was not an active member. I never was—never attended regularly. I understood the form and ceremony a little better than most of them and was generally present at the initiation of members or a great many times at least. But then I was not active in attending. That probably was the reason I was not re-elected.

Q. You were not re-elected chief but John T. Fogleman was? A. Yes, sir.

Q. Will you please state whether or not you know anything with regard to the raid on Shoffner as it has been termed, and about his leaving the county? A. Yes, sir.

Q. State what part you took in that matter? A. I know what I heard about it.

The CHIEF JUSTICE. Just tell what you know about it.

Q. You heard from the chief of the county? A. Well, that is the way I know what I do know. That is what I heard in the county. I don't know that it was from a chief. Daniel Foust—no, James A. J. Patterson came to me some time during the recess of the legislature here, and told me he had received an order from some source or other—I don't remember that he told me what.

Q. From what county? A. From Orange county—stating that Shoffner would be hanged on a certain night, and he came to me to talk about it to know what I thought about it.

He denounced the idea, and thought it ought not to be done, and I thought so too, and after talking I finally told him if he would leave the matter with me I thought I could protect him—I could take him away—I could save him, and I did so. I got him to go with me to Greensboro', and detained him there until the matter passed off.

Q. Was it until the time passed when he was to be hanged? A. Yes, sir.

Q. You took him to Greensboro' and detained him there? A. Yes, sir.

Q. What night was designated as the night he was to be hanged? A. My recollection is that it was Tuesday night.

Q. Did Mr. Patterson tell you that that order was sent to him in writing? A. Yes, sir, I think he did.

Q. Did he say from whom it came? A. From the chief of Orange county.

Q. Did he say who he was? A. No, sir it was signed in cipher, if I am not mistaken, in some way that he could not make it out,

Q. Didn't he state who the chief of that county was to you? A. He did not.

Q. Didn't he tell you that Webb was the chief? A. He did not.

Q. He stated to you that an order had been received by him that Shoffner was to be killed on the night you mentioned—hanged—and you decoyed him off, and got him to go to Greensboro'? A. Yes, sir. I stated before that the organization I belonged to knew no such name as chief, that we inferred at once that it was from another source—from some other order and we did not know who the chief was.

Q. Do you know who the chief of Orange county was? A. I do not.

Q. Did you have any secret way of writing in your organization? A. None. We did not correspond.

Q. You had no cipher at all? A. No, sir.

Q. This was another cipher? A. Yes, sir.

Q. Did the order say how he was to be executed or done away with? A. He was to be hanged and then——

Q. What was to be done with his body? A. If I am not mistaken, he told me that the order stated that he was to be hanged until dead, and then sent to Governor Holden.

Q. His body was to be sent to Governor Holden? A. Yes, sir.

Q. [By the Chief Justice:] You used the word "decoy"—you say you decoyed Shoffner off. Was that the word you intended to use?

Mr. BADGER. Tell the circumstances of that, will you? A. I do not know how to define that word.

Q. Just tell the circumstances? A. I solicited him to go with me to Greensboro'.

Q. [By the Chief Justice.] State what you said to him? A. I don't recollect the words. I asked him to go with me to Greensboro'. He at first declined to go, and I insisted that I had some business that I wanted to attend to, and wanted his company. He had a horse and conveyance. I had none, and we were very intimate and went together. Under these circumstances he just went with me.

Q. You did not let him know? A. I did not let him know anything about the matter at all.

Q. You say he was a particular friend of yours? A. Yes, sir.

Q. Do you know his general character in that county? A. Yes, sir, I think so.

Q. What was it? A. It was good for the last ten years.

Q. I do not refer to any character that has grown up since the passage of the Shoffner act. I mean his character as a man? A. I think it was good.

Q. Do you know where he is now—whether he has left the county? A. Yes, sir, he has left the county and left the state.

Q. When did he leave? A. He left last April, I believe.

Q. How long did he remain after the adjournment of the

general assembly? A. Well, he lett the 6th April, if I am n mistaken. The general assembly adjourned in March I belie He was home but a very few days.

Q. He left and went out of the state, and went west? He did not stay about home much.

Q. Do you know why he left the state? A. Well, yes, left on account of the Kuklux, there's no doubt about that.

Q. He was a state senator from Alamance county, was not? A. Yes, sir.

Q. Do you know of any outrages having been committed the county of your own knowledge? A. I do not.

Q. You didn't see the parties upon which they had inflic injuries, or personally see them inflicted? A. No, sir, I not.

Q. Did you ever hear any member of the organization t with regard to the number of outrages that had been commit by this camp? A. I heard one speak of it. He did not t me he was a member, but from his conversation I inferred t he was a member.

Q. Who was he? A. Daniel Foust.

Q. Please state what Mr. Daniel Foust said to you?

Q. [By the Chief Justice.] Was that while these outra were going on, or since? A. It was about—some time a Shoffner left. That is the way he came to——

Q. State what Mr. Foust said? A. He was talking w regard to——

Mr. GRAHAM. I understand the witness says it was so time after Shoffner left that he had this conversation with Fo We submit that there has been no proof of any outrages a Shoffner did leave which was on the 6th of April, 1870.

Mr. BADGER. I understood the chief justice to mean t that we could not go into any outrages after the military possession of the county. We propose to show by this wit that Mr. Foust stated what his camp had been doing for a l time previous to Shoffner's leaving, and what he wanted Eu camp to do previous to that time.

The CHIEF JUSTICE. You can prove that conversation.

Q. Please go on and recite the conversation you had with Foust. What Foust was it? Q. Daniel Foust.

Mr. GRAHAM. With the permission of the chiet justice, I beg to make a few remarks upon that subject.

The CHIEF JUSTICE. You can do so.

Mr. GRAHAM. The witness states that Shoffner left this country on the 6th April, 1870. We say there has been no proof of any outrage in the county of Alamance subsequent to that time, and that this conversation with Foust that the witness is now asked to relate, occurred after Shoffner left. Greenleaf in laying down the doctrine says at sections 110 and 111:

"It is to be observed that where declarations offered in "evidence, are merely *narrative of a past occurrence*, they can- "not be received as proof of the existence of such occurrence. "They must be *concomitant* with the principal act, and so con- "nected with it as to be regarded as the mere result and con- "sequence of the co-existing motives, in order to form a proper "criterion for directing the judgment, which is to be formed "upon the whole conduct. On this ground, it has been holden, "that letters written during absence from home are admissible "as original evidence explanatory of the motive of departure "and absence, the departure and absence being regarded as one "continuing act.

The same principles apply to the acts and declarations of one of a company of *conspirators*, in regard to the common design as "affecting his fellows."

The CHIEF JUSTICE. There is no doubt about that. The only difference is that Greenleaf confines it to one, while here has been a series of facts. The only point the presiding officer wishes to ask about is whether there has been any act of outrage since Shoffner left, in Alamance county.

Mr. GRAHAM. I also want to call the atteniion of the chief justice to another clause:

"And here also care must be taken that the acts and declara-

"tions thus admitted be those only which were made and dur
"during the pending of the criminal enterprise, and in further
"ance of its objects. If they took place at a subsequent period
"and are therefore merely narrative of past occurrences, the
"are, as we have just seen, to be rejected."

Now, there has been no proof here of any outrage after th
6th of April, the date of Shoffner's departure.

Mr. BADGER. I don't know whether we have proved an
outrages after that or not.

The CHIEF JUSTICE. It should be confined to the tim
when the outrages were going on.

Mr. GRAHAM. Outlaw, it seems, was hanged on th
26th February. On the 6th of April following, Shoffner le
There is no proof of any occurrence of the kind after the dea
of Outlaw.

Mr. BADGER. I want to state, Mr. Chief Justice,
order to show that the evidence was in furtherance of the co
mon design that the conversation between Foust and the wi
ness was of this character. We propose to show that Dani
Foust, being a member of that order, came to this witness an
stated to him that he had been whipping for all the other kla
in the neighborhood, and he insisted that Captain Euliss' kl
should perform such service for his klan. I say that this is
furtherance of the common charge.

The CHIEF JUSTICE. Was this conversation in respe
to which you asked the witness, after a discontinuance of the
acts.

Mr. Manager SPARROW. That is what we allege.

Mr. BADGER. I don't know when it was, until the wi
ness states.

Mr. BRAGG. He said it was after Shoffner left that h
had a conversation with Foust.

Mr. BOYDEN. I would like to say a few words on th
subject.

The CHIEF JUSTICE. You can proced.

Mr. BOYDEN. I think, Mr. Chief Justice and senators, th

the counsel have made divers mistakes upon this question of evidence. It will be recollected that no man is now on trial here for a conspiracy but the respondent is on trial for calling out militia and declaring these counties in a state of insurrection. I admit that the rule read from the book is the law when a man is on trial for a conspiracy. But this case differs widely from that as day differs from night and is governed, as I conceive, by totally different principles of evidence. The time when this conversation occurred was, according to their own account, before the county had been declared in a state of insurrection.

Mr. GRAHAM. No, sir, it is after. The county had been declared in insurrection on the 7th of March, 1870, Shoffner left the 6th of April following.

Mr. BOYDEN. Perhaps it was after the acts had ceased in Alamance but in Caswell they continued afterward. That does not affect the question at all. It does not matter whether it was before or after the county had been declared in a state of insurrection. We are endeavoring to arrive at the facts which existed touching this organization as a justification for the course of the respondent. Suppose he did not know half of the facts that we have proven here and he issued his proclamation upon the information which he then possessed, and that the senators should think he ought not to have done it because he had not sufficient information to warrant it; or suppose that before we get through with the trial, we are able to show that more than half of the white citizens of Alamance were actually in this organization, and suppose that we show, although the governor did not know it, this organization extended throughout the state of North Carolina, that there were twelve hundred men in Guilford and forty thousand in the state—if we establish that fact on this trial, will it not appear to every senator that the respondent has not only not done what he ought not to have done, but that he was amply justified by the state of things in doing what he did?

But the main view of the case is that which I stated first. I

conceive, Mr. Chief Justice and senators, that the rule governs in the trial of a conspirator does not apply here. expect to show that this man Foust came to this witness, being members and being chiefs of camps and asked his tance to carry out his decrees to scourge and do othe saying "I have done it for your camp, I have done it "the camps and I now insist you shall do it for my c Doesn't that show that the organization had not been disba There is no proof that they disbanded when Shoffner went and what has the fact of Shoffner's departure to do wit matter.

Mr. MERRIMON. Mr. Chief Justice ——

The CHIEF JUSTICE. It is not necessary for the co to argue the point. The presiding officer thinks the evi is not competent.

Q. When was this conversation? A. It was in the part of last summer or the latter part of spring.

Q. [By the Chief Justice.] There was nothing done that by you or your klan? A. No, sir, not to my knowl

Q. Was it after the county had been declared in a st insurrection? A. I don't know when the county was dec in a state of insurrection.

Q. The 7th of March I believe it was? A. Yes, sir, i after that.

Q. Will you state in what counties this order existed to knowledge besides the county of Alamance.

Mr. MERRIMON. We object to that. It has bee pressly ruled out before.

Mr. BADGER. We propose to connect all these cou in this general conspiracy and then to ask the court to pe us to introduce evidence in regard to these transactions in counties. We will not argue it now but will reserve question.

Q. Was the Constitutional Union Guard still in existen the time of this conversation between you and Foust? A

some extent, but not much. The meetings were very irregular.

Q. But it was still in existence? A. Yes, sir.

Mr. BADGER. We now ask to prove that fact on the ground that the organization was still in existence.

Mr. GRAHAM. There was nothing done by the order if it did exist at that time. That is shown.

The CHIEF JUSTICE. This the presiding officer understands was the recital by Foust to the witness in reference to what he had done and a request by Foust to know what he should do.

Mr. BADGER. No, sir, it was an application to the witness to assist him, the order being still in force in the county and the conspiracy still at work.

The CHIEF JUSTICE. That assumes that it was still at work.

Mr. GRAHAM. The witness says there was nothing done after that time.

By the CHIEF JUSTICE:

Q. Was there anything done after that time? A. Not to my knowledge.

Q. From information received from any member of the order was it still at work? A. No, sir.

The CHIEF JUSTICE. The question is ruled out.

By Mr. BOYDEN:

Q. Do you know whether this organization existed in any other counties, and if so, in what counties.

The CHIEF JUSTICE. That is the question to which they object.

Mr. BADGER. Well, sir, I will not press it now.

Q. Do you know who instituted the order in that county—who brought it? A. I do not.

Q. Did you ever understand from any of the chiefs in your county who brought it to this country?

Mr. MERRIMON. What do you mean by "this country?"

Mr. BADGER. Into North Carolina.

Mr. MERRIMON. I object to the question.

The CHIEF JUSTICE. Into Alamance, do you mea

Mr. GRAHAM. He has already stated.

A. Yes, sir, I stated who brought it to Alamance.

*Cross-Examination.*

By Mr. MERRIMON:

Q. I ask you whether any provision in the oath you when you were initiated into the order of which you spoken, required you to do anything in opposition to the or federal governments? A. I thought not, sir.

Q. I ask you whether any explanation that you received the person who initiated you or anybody else pointed o you as your duty as a member of the organization to resis laws of the state or federal governments? A. No, sir.

Q. There was no such provision in the by-laws? A. such whatever.

Q. You have been asked as to whether you did not tak oath or whether you did not understand your duty to resist what is known as the fourteenth and fifteenth an ments to the constitution of the United States. Had amendments been adopted as part of the constitution o United States at the time you were initiated into this or zation? A. I think not.

Q. Was there any such provision in any obligation tha took or any explanation given to you? A. No, sir, there not.

Q. You say that Shoffner was a man of good character? Yes, sir.

Q. Wasn't he popular among the people—hadn't he himself popular by reason of his course in the legislature all class of people there, up to the time this Shoffner bil introduced? A. Yes, sir.

Q. I ask you whether that bill was very offensive t people of your county? A. I think it was.

Q. And he grew unpopular on that account? A. unpopular, yes, sir.

Q. Were you at a public meeting at Graham in the mo

January. A. They held a public meeting there in reference to this Shoffner act——

Q. Were you there? A. No, sir, I was not there.

Mr. MERRIMON. Stand aside.

Mr. BADGER. Wait a moment. I wish to examine the witness a little further.

Mr. MERRIMON. I have called out no new matter.

Mr. BADGER. We desire to ask him some questions in reference to Shoffner's unpopularity.

The CHIEF JUSTICE. In reference to the Shoffner bill?

Mr. BADGER. Yes, sir, that is what I desire to ask him.

*Re-Direct Examination.*

By Mr. BADGER:

Q. What class of the community was it with which he became unpopular—republicans or democrats? A. The democrats.

Q. Did he become unpopular with them? A. Yes, sir, and there were republicans that did not like his course in that matter.

Q. How was it with the great bulk of the republicans? A. Well the great bulk of them I think rather endorsed it.

Q. He was elected as a republican, was he not? A. Yes, sir.

J. A. J. PATTERSON, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. State where you reside? A. In Alamance county.

Q. How long have you lived there? A. Thirty-five years—ever since I was born.

Q. Did you ever join any one of these organizations—the White Brotherhood or the Constitutional Union Guard? A. I joined the Constitutional Union Guard.

Q. Please, without my asking you any questions tell all with regard to your connection with it? A. Well, I joined it in the fall of 1868.—September I believe.

Q. State where the order came from—who brought it there

and all about it? A. A man by the name of Watt initia the klan that I belonged to. He said he was from Chath county.

Q. Before you go into the general statement state how y knew Captain Watt to be an authorized person to initiate yo A. I don't know that he was. I didn't know him until t night.

Q. How did you form a connection with him? A. Well, was introduced to him by one that was initiated at the sa time—my cousin.

Q. Who was he? A. Patterson.

Q. What Patterson? A. Armistead J. Patterson.

Q. Now go on and make your statement? A. As to wh I know of the organization, do you mean?

Q. Yes, sir. I do not care about your going over wh Capt. Euliss did. I want to know how many camps you esta lished? A. Well, I established five, I think only.

Q. How many were there in the county? A. Five klan that is all I ever knew of being in the county.

Q. What were the names of them, and who were their sou commanders respectively? A. Well, of the first klan I w south commander; of the second klan Euliss was the sou commander; and then I organized three klans in the town Graham, at the June court, 1869—all in the same week—o Wood was commander of——

Q. What Wood? A. Jasper N. Wood, and of the one Graham, Jacob Long was elected south commander.

Q. Who was commander of the other? A. Anthony I thi was the south commander of the other.

Q. What Anthony? A. I think George Anthony.

Q. Those were all the klans you organized? A. Yes, sir.

Q. Did they make reports to you from time to time? A No, sir, there were never any reports made to me.

Q. Did you have a meeting of the south commanders? A No, sir, no general meeting except when we disbanded.

Q. When did you disband? A. We disbanded before the last election.

Q. Before which election? A. The last election.

Q. Last August? A. Yes, sir.

Q. You mean the general election in August? A. Yes, sir.

Q. At what time? A. I don't recollect the date—several weeks before the August election.

Q. [By the Chief Justice.] Was it before Kirk came to Alamance or afterwards? A. I think it was before. It was after the Shoffner bill was passed.

Q. Was it in consequence of the Shoffner bill that you disbanded? A. Well, it was in consequence of troubles that we thought we were likely to get in to.

Q. It was in consequence of troubles you were likely to get into resulting from the passage of that bill and any action that might be taken under it? A. I suppose that led to it.

Q. You do not know the precise date? A. No, sir.

Q. About three weeks before the election, you think? A. Three or four weeks.

Q. Can you tell how many members belonged to the Constitutional Union Guard in your county? A. I cannot correctly. There was no report made to me from the different klans as to how many belonged.

Q. Can you state from what you gathered from the other south commanders how many there were? A. No, sir, I cannot state as to the number.

Q. About what number—I don't mean exactly? A. Well, the numbers were never very great—I don't suppose there ever was—there wasn't a hundred in the county I suppose that belonged to it.

Q. How many belonged to your klan? A. Well, not more than ten or twelve, there was a portion of Euliss' klan went off from my klan.

Q. State what you know with regard to the time of assassinating Shoffner and your getting an order to do it?

A. Well, there was a letter to that effect come to me tha was to be assassinated on such a night—to be hung.

Q. How? A. There was an order come to me saying he was condemned to be hung on such a night.

Q. Who brought it to you? A. Jasper Wood.

Q. He was one of your south commanders? A. Yes,

Q. Did he state to you from whom he got it? A. from the best of my recollection he said he got it from Fo I am not positive about that—James Foust. That is the of my recollection that he was the man.

Q. How far did he live from Gilbraith's bridge? A. far do I?

Q. No, sir, Foust. Is he the Jim Foust that lives near braith's bridge? A. No, sir, it is some four or five m probably more than that.

Q. He said he got it from him? A. That is my recollec

Q. What was that order?—have you got it yourself A. No, sir, I just returned it to Wood.

Q. State the language? A. It was what I stated— Shoffner was condemned to be hung on such a night, I d recollect the date—until he was dead.

Q. What was to be done with his body? A. There nothing in the paper that said anything about as to what to be done with his body.

Q. Did Foust state what was to be done with the body? I think Foust said his understanding was, that he was t sent on by railroad to Governor Holden.

Q. Did Foust say where this order came from? A. No I asked him where he got it from, and he did not say whe came from.

Q. Did he say what county it came from? A. Not more than the signature.

Q. What was the signature? A. It was the chief of Ora

Q. What were the letters? A. I don't recollect—t were two letters, and I think a figure.

Q. Do you recollect what the two figures were? A. No, sir, I don't recollect what they were at this time.

Q. Was Jim Foust a member of that order? A. I think he belonged to Wood's klan.

Q. Does he live in the direction of Orange from Graham A. No, sir, he lives south of Graham—rather a little east of south.

Q. [By the Chief Justice.] You told Euliss about it, and Euliss told Shoffner? A. Yes, sir.

Q. You sent for Euliss and talked about it? A. I did.

Q. Will you state as well as you can, what the oath of that order was—the obligation? A. Well, I have known it all by heart but I don't recollect it. I could not state it now.

Q. Can you state the substance of it now? A. Well I might state some of it.

Q. Was there a provision in there to resist by force of arms any attempt to deprive you of your constitutional rights? A. Yes, sir, there was a clause in there.

Q. To resist by force of arms any attempt forcibly to deprive you of your constitutional and legal rights. A. That was one clause.

Q. That order was introduced into your county pending the first presidential election? A. Yes, sir, I think it was introduced before that, just before the presidential election.

Q. Did that oath apply to the constitution as it was or to the constitution as it is—the constitution that you received from your forefathers or the constitution as it had been amended? A. I don't think there was anything in the original about our forefathers. I wrote it off from the original myself but I think I have seen that in some of the others about the forefathers but it was'nt in the original I got it from.

Q. Have you got a copy of it? No, sir, I did have but I destroyed it.

Q. What did you introduce into it—of the copy that you made? A. I did not introduce anything into it? I wrote it off but I saw others afterwards.

Q. Others that had incorporated
I think they had.

Q. What was that feature you sa
regard to the constitution of our fo
original specified what constitution.

Q. The original did not specify a
stitutional rights that your forefathe
to you? A. I have seen that in
ten off.

By Mr. Merrimon:

Q. Was there any provision in
made it your duty as a member of
force this state government or the
States? A. No, sir.

Q. Was there any provision in t
that required you to resist by force
teenth and fifteenth amendments to
ted States? A. No, sir.

Q. At the time you were initi
had those two amendments been in
constitution of the United States?

Q. Did you initiate James E. B

Q. I ask you whether in the oat
him you required him to swear to s
was before the adoption of the four
ments? A. No, sir.

Q. In the explanation that you
him that he would be bound by th
constitution as it was before their ad

Q. Are you sure of that? A. I
was not in the original. I only ad
the original. I had that by heart.

Q. I want to ask you with a litt
the time you dissolved this organiz
dissolving it. See if you can fix
after the passage of the act prohibi

disguise and the Shoffner act also; was it very soon or sometime? A. It was a short time after that act about going disguised I think.

Q. That was passed in 1868? A. I do not recollect what time it was passed.

Q. Did you have that act in view at the time it was dissolved? A. Yes, sir.

Q. Was the dissolution before or after the Shoffner act? A. I don't recollect about that; it probably was after the Shoffner act. There was several other acts that were passed before we did dissolve.

Q. These acts had been leveled at secret orders? A. Yes, sir.

Q. You determined to get rid of them? A. Yes, sir.

Q. Was it before Kirk was there? A. It was.

Q. How long before? A. I don't recollect.

Q. Will you say it was some time, or a short time. Give us the best idea that you can form about it? A. It was a short time before he came there—I think it was but a short time before he came there.

Q. What do you mean by that, a month or two months? A. I don't suppose it was more than two weeks—a week or two.

*Re-Direct Examination.*

By Mr. BADGER:

Q. Do you know when the fourteenth amendment was adopted? A. I don't recollect.

Q. You stated to the counsel [Mr. Merrimon] that this organization was introduced into your county before that amendment was adopted? A. I think—I am satisfied about that.

Q. I suppose you referred to the fifteenth amendment? A. The exact time I don't recollect.

Q. Do you not refer to the fifteenth amendment, the one giving colored men certain rights? A. The colored man his rights—I reckon that was the one I referred to.

Q. You referred to the fifteenth amendment. The four-

teenth I think was adopted some time before. Were not all amendments adopted before the dissolution of your order? All those amendments adopted?

Q. Yes. To the constitution of the United States-thirteenth, fourteenth and fifteenth? A. Before we dissol

Q. Yes? A. Well, they probably were.

Q. And you had kept your organization up after the tion of those amendments? A. Yes, sir.

Q. [By Mr. Merrimon.] Was there any obligation re on you or on any of the members of the organization so you know to resist the constitution of the United States these amendments in it? A. Nothing in the world.

JOHN W. LONG, *a witness called on behalf of th spondent, being duly sworn, testified as follows:*

By Mr. BOYDEN:

Q. Where is your place of residence? A. Huntsville, bama, now.

Q. State whether you belonged to the organization calle Kuklux or White Brotherhood. A. Yes, sir, I belonged t organization known as the White Brotherhood.

Q. Look at that disguise. [A package was handed t witness, from which he drew a long white gown and a head-dress, covered with horns having red tassils at the and coming down over the face, with openings for the n and eyes.]

Mr. MERRIMON. Suppose he puts it on.

Mr. BADGER. Put it on.

The Witness then proceeded to attire himself in the gown the head dress. [Laughter.]

Q. What is your name? A. John W. Long.

Q. I wish you to go on and state now, without being ticularly questioned, as to when you joined this organiza where you joined it, and all you know about its objects about its acts. A. Well, sir, I joined at the Company Sl in 1868, in Dr. John A. Moore's office. John T. Trolli

was chief of the camp I belonged to, and Jacob A. Long was the chief of the county as I understood it.

Q. State how many were present when you joined? A. There were some five or six.

Q. Name them as well as you can? A. There were Thomas Gray, George Tolar, John T. Trollinger, William Redding, Priestly Ross and George Anthony. I think those were the ones.

Q. State whether you remember the obligation or oath that was administered to you. If you do not remember the words give us the substance of it. A. I don't remember the oath.

Q. Can you give us the substance? A. Well, sir, the first "oath was, "You solemnly swear you will never reveal what "is about to come to your knowledge, or any of its members, "or the man that initiated you." I really do not recollect the oath. The substance of it, according to my understanding, was to keep the colored man from elevating himself with the white man and to overthrow the republican party; to go around before elections and to scare the republicans or the colored men, to keep them from going to the polls.

Q. To go around how—in what shape? A. In disguise—masked.

Q. Such a disguise as you exhibited just now? A. Yes, sir.

Q. State whether you were to go in the night or in the day? A. Went in the night—never done business in the day.

Q. [By Mr. Manager Sparrow.] Was that part of the oath too?

Mr. McCORKLE. You can cross-examine when we get through.

The WITNESS. That was part of the oath—that we were to——

Q. What was the rule about orders? A. We were to stand by each other at all hazards; if anybody should get arrested or put in jail we were to release them and stand around and get on a jury, if possible, and bring out a verdict in favor of the prisoner.

Q. How was it about orders that were issued by a camp?

A. Well, if an order was issued by a camp—by any camp—we used to go and execute it.

Q. What was the rule as to obeying or disobeying o A. We were to obey orders.

Q. Do you know how many camps there were and wh chiefs were in your county? A. There were ten camps. is my understanding.

Q. Do you know the chiefs of the camps? A. I th know the most of them.

Q. Tell all you know. A. Jacob A. Long was chief c county. John T. Trollinger, David Mebane, Jasper N. W William Tickle, Job Faucett, Sheriff Murray and some that I don't recollect just now.

Q. Any man by the name of Anthony? A. Geo. An —he was a chief.

Q. State when was your first meeting? A. The first ing I was at after I was initiated was east of Haw river, the railroad,—close to Black creek—between Black creek Haw river.

Q. What time of the year was that? A. It was in D ber, I think, in 1868—the first regular meeting that e was at.

Q. What was done there? A. There was nothing with the exception of some members initiated that night Camp No. 10, I believe, was to be established.

Q. You are speaking of the meeting after you joined? Yes, sir.

Q. You say it was at Haw river? A. Yes, sir.

Q. Who were present? A. Well, there was William phy Andrews, Ruffin Andrews, John Andrews, Robert S ard, William Fogleman, Ruffin Fogleman, Emsley Fogle John G. Albright.

Q. What did you see there? A. I saw several men guised.

Q. State whether any were initiated that night? A. sir.

Q. Do you recollect how may, and who they were? I think there were some five or six. They were from the eastern part of the county and I didn't know them.

Q. Who was chief of that camp? A. David Mebane.

Q. Did you go to any other meeting? A. Yes, sir.

Q. When was that? A. I think the next meeting I went to was Sheriff Murray's.

Q. [By the Chief Justice.] Go on and give a connected history. Tell all that you did without being asked. A. The next meeting was Sheriff Murray's, north of Haw river, close to Seller's mill-dam. We went there that night; we met and there were some five, I think, initiated. There were Jeff Younger, Henry Clay Hurdle, John Jeffries, Frederick Blanchard and some others I don't recollect.

Q. Were there any orders made there? A. Yes, sir.

Q. Tell what they were. Was Murray there? A. Yes, sir.

Q. Tell, what was done then? A. After they were initiated they read the by-laws, and Sheriff Murray proposed that there should be a coffin made and put at Joseph McAdams' door, and it was voted upon and was carried. And Jeff Younger and Frederick Blanchard were to make the coffin. George Mebane proposed that our camp should carry the coffin to Joseph McAdams'. The coffin was made a short time afterwards.

Q. How do you know that? A. Well, our camp carried the coffin to his house.

Q. Tell all you know about its being carried there? A. Well, on the evening the coffin was to be carried William Kirkpatrick came up after me to carry the boat to meet him on the other side of the river. They were to go around by the bridge by sheriff Murray's factory and carry the coffin, and we were to bring them back across the river in a boat. But I did not go, and they went and carried the coffin, I suppose.

Q. [By Mr. Graham.] How do you know? A. They told me so.

Q. Tell what they told you. A. They carried the
and waded the river at Sellers' mill.

Q. How do you know that? A. They told me the ne

Q. What did they do with the coffin? A. They p
Joseph McAdam's door, and when he opened the do
coffin fell in.

Q. Did you see the coffin? A. I didn't see the co
saw the lid.

Q. What form was the lid? A. In the shape of a cof

Q. What was the size of it, about? A. Well, I really
know. It was not as large as a coffin for a man; abo
twixt four and five feet long, I think.

Q. Was there any thing else done at that meeting? A
sir, with the exception of at night, when they were ini

Q. Was anything said about a man by the name of I
Caswell Holt?

Mr. GRAHAM. I would rather the witness should
and describe.

The CHIEF JUSTICE. Go on and tell all that you
about it.

A. Well, sir, after that meeting the next meeting I
was in a pine thicket near Anderson Thompson's. I
that was the next meeting, I won't be positive about
The next meeting we whipped Sandy Sellers. We met i
woods near Thomas Sellers' place. There were five o
men there when I got there, and there were two men the
be initiated that night. We initiated those men, and so
them proposed that John T. Trollinger, as chief of the c
should come and go that night to whip Sandy Sellers.
was not there and me and Murphy Andrews—or Willia
Andrews—went after him.

Q. Went after whom? A. Trollinger. He came, an
went on to Joseph Hardin's where Sandy Sellers lived.
took him out of the house and went out about three hun
yards in the woods and there tied him to a tree, took of
shirt and gave him too licks apiece.

Q. How many were there? A. There were sixteen of us, I think.

Q. Why did they all whip? A. Well, it was the order of the camp that we should all give him two licks apiece.

Q. That was the order? A. Yes, sir.

Q. Could you fix the time that was? A. In 1868.

Q. What time in 1868? A. It was near christmas, I think.

Q. Go on. What next? A. Well, we gave him a thrashing and went home, and the next meeting I was at——

Q. Did you say anything to him after you thrashed him? A. Well, we told him never to talk about white ladies the way he had, or something about some stock—was said. The understanding was that the order came from Sheriff Murray's camp that he should be whipped.

Q. Go on and tell the next? A. The next meeting I was at was between the Company Shops and ——

Q. Wait; I want to ask if Sheriff Murray was the chief of a camp? A. Yes, sir, he was chief of a camp at that time. The next meeting that I was at was between Company Shops and Simeon Jeans', on Dr. Tapley's land, near Henry Smith's. We met there that night and Dr. Moore was to be initiated. He was not there—they didn't get him there. It was proposed that me and James Tate should go after Dr. Moore. We went to Dr. Moore's house and inquired for him. He was not at home—he was at Daniel Worth's. We goes to Daniel Worth's and called him out. Tate told me to tell him that my wife was sick and I wanted him to go and see her. I told him. We went away down opposite Mr. Stagg's about three hundred yards I reckon, and Mr. Tate told him what he wanted with him. He said he could not attend that night, but would in the course of a week. We went on to the camp and after we got there ——

Q. What took place after you got to the camp? It was said a man by the name of James Corsey, a member of the camp, had been talking too much and they wanted to know what should be done with him. Some proposed that he should be

talked to and others proposed that he should be put
the way.

Q. What was done? What did you do in the camp?
Well, we said that Mr. Corsey should be seen and t
to and if he didn't do better, that he should be put out o
way, that dead men told no tales. Jerry Holt ——

Q. Who stated that? Do you know? A. No, sir, I
recollect the man that stated that.

Q. Go on. A. Jerry Holt and George Anthony were
that night from their camp. They brought an order that
well Holt should be whipped and that our camp should
I think it was on Friday night to the best of my knowledg

Q. What year was it, and what time? A. That was in 1
I think, about January or February; I won't be positive.

Q. Go on and tell who was there when this order was m
A. Well. there were Thomas Tate, George Mebane, Ge
Anthony, Jerry Holt, Ruffin Fogleman, William Andr
Sandy Andrews, William Kirkpatrick, myself, George Je
Simeon Jeans, and Joseph Kirkpatrick; there might
been others that I don't recollect.

Q. An order was passed that he was to be whipped?
Yes, sir.

Q. Do you know who made the proposition? A. Well,
order had been passed in another camp and brought to
camp that we should do it. It was not proposed in our ca

Q. What was done about this? Do you know anytl
about it? A. Well, it was either on Friday night—I re
don't recollect the night it was done, but on the night it wa
be done, he was whipped; and William Fogleman, Ru
Fogleman and Emsly Fogleman came by my house and
me they wanted me to go with them, but my wife told me
to go. I didn't go, and they went and whipped him.
William Kirkpatrick and Wm. Fogleman and W. M. Andr
told me they had whipped him that night.

Q. When did they tell you that? A. They told me a
wards?

Q. How soon afterwards? A. In the course of a day or so. They said that when they went there they broke down his door and he showed fight, and Mr. W. M. Andrews throwed him out of the house—he was a very stout man—and jumped on him with his knees, carried him off and whipped him.

Q. What sort of a whipping did they say they gave him? A. A rather severe whipping I suppose. They said there was about sixteen of them whipped him.

Mr. Manager SPARROW. You cannot state what you suppose.

The WITNESS. Well, sir, they told me they did.

Q. Sixteen of them? How many licks did they say they gave him apiece? A. They said they gave him three licks apiece. And a few days after that Caswell Holt got out a warrant and had a man arrested by the name of Peter Sellars. He was carried before Peter Hardin, the magistrate.

Q. Were you there? A. I was there at the trial. I happened to be in Graham that day and went to the trial. He proved himself clear.

Q. He was clear, was he? A. He was. He was not there, he didn't belong to the organization.

Q. Did you say he was clear? A. Yes, sir, he was.

Q. He was not engaged in the whipping? A. No, sir, he was not engaged. He didn't belong to the organization.

Q. What next after that? A. I went to some other camp, but I don't recollect what camp I went to next.

Q. Anything more about Caswell Holt, in any way? A. Yes, sir. A short time afterwards—I think there were two or three meetings that I went to before he came up again.

Q. Tell what was done at those meetings, before he came up again, if you can. A. I recollect the next meeting I went to—I think—was a county meeting.

Q. Let us hear about the county meeting? A. That was betwixt Haw river and Graham, close to the forks of the road—one to go to Greensboro' and the other to Graham.

Q. What time did you meet there, in the day or night In the night, we never met in the day time.

Q. Tell how many there were there? A. I think were some—betwixt two and four hundred.

Q. How did they assemble, on horseback or on fo guised or how? A. Some of them were on horseba some of them were on foot. Those that were near w foot and others from far off were on horseback. The were pretty generally there that night, I think.

Q. Tell how many chiefs were there? A. I don't re how many chiefs were there.

Q. You say they were nearly all there? A. I thin were, they were required all to be there.

Q. You don't know whether they were all there or not I don't know whether they were all there or not, I re some that were there.

Q. Name the chiefs that you know were there? A. Murray——

Q. Is he the sheriff? A. Yes, sir—and Job Faucett, A. Long, John T. Trollinger, David Mebane, Jasper N. and George Anthony. That is all I recollect.

Q. What was the object of that county meeting? A. it was to find out the strength of the county I suppose- many were in the county.

Q. You say that Jacob A. Long was there? A. Yes,

Q. How many was it stated there were in the county?

Mr. GRAHAM. Was it stated at all?

A. The chiefs were talking about it that night.

Q. Go on and state how many they said there were? There were betwixt two and four hundred.

Q. There; but how many were there in the county There were betwixt four and six hundred in the county, or seven hundred, something.

Q. That was stated by the chiefs? A. Yes, sir.

Q. And particularly by Long? A. Yes, sir.

Mr. GRAHAM. He did not state that you led him that way.

Mr. BOYDEN. We certainly heard him say that.

The WITNESS. I say there were between six and seven hundred that were stated there that night to be in the county.

Mr. GRAHAM. You began by saying there were three or four hundred.

The WITNESS. I do not hear very well. I thought he meant to ask how many were at the camp that night. That was my understanding.

Q. That was between two and four hundred? A. At the camp that night.

Q. You were asked what was said about the number in the county by the chiefs? A. Yes, sir.

Q. And what chiefs—repeat that over now? A. Well, sir. The chiefs that night were——

Q. No, the number that they said there were in the county, if they said anything about that? A. Six or seven hundred.

Q. Did you say the object of that meeting was to ascertain their strength? A. Yes, sir, and that night they passed on to make a raid through Graham—to ride through in disguise.

Q. They resolved to ride through Graham in disguise? A. Yes, sir.

Q. Do you know anything about the riding through? A. No, sir, I was not there that night, but there were several told me that they went through.

Q. Did they tell you how many there were? A. They said there was about betwixt eighty and a hundred rode through Graham that night.

Q. What time was it that you had this meeting when they resolved to ride through? A. I don't recollect, sir.

Q. Do you recollect what month? A. I think it was in February.

Q. How long before Outlaw was killed? A. That was done a year after.

Q. How long after this meeting were they to ride thr
A. A month after.

Q. You understood they did ride through from me
that were there? A. Yes, sir.

Q. Go on and state what you know further? A. The
meeting I was at was a meeting between Anderson Th
son's and Constance Whitsett's, in a pine thicket. I
when Caswell Holt——

Q. Tell all that took place there? A. We went the
night with the object of seeing what was to be done with
well Holt

Q. Tell all that took place there and who was ther
many as you can? A. There was Thomas Tate, G
Mebane, Doctor Tarpley, William Fogleman, William
drews, Ruffin Andrews, William Kirkpatrick, Simon J
John T. Trollinger, George Anthony, William Whi
Lemuel Whitsett, Thomas Robertson, Henry Rober
Priestly Ross and William Swan, I think.

Q. Tell what was done. Tell the propositions that
made if any were made? A. The first they said of Ca
Holt was that they were getting out some subpœnas for l
to go before the court about disguises; that Caswell Holt
stirring up a considerable disturbance and they wanted
whipped or something done with him. That was voted d
Then it was proposed to hang him and leave him hanging.

Q. Who made that proposition, do you recollect?
think George Anthony made that proposition.

Q. What vote was taken on it? A. They proposed the
drown him in Haw River.

Q. They proposed first to hang him? A. Yes, sir,
they said that would not do, that that would raise too n
fuss in the county. Then they proposed to drown him
put him out of the way in that way. Doctor Tarpley said
thought that was the best, "that dead men told no tales."
proposed that he should be drowned in Haw river, at Sl
Murray's mill pond.

Q. That was the order passed? A. Yes, sir, and after the order passed on that, they passed an order that the camp No. 10 should execute the order. That was Job Faucett's camp, and I was to carry the order to Camp No. 10. That was on Monday night and I carried the order early the next morning, and when I reach Mr. Faucetts he was planting some apple scions and I told him what my business was and he said that he would execute the order on Friday night. On Wednesday I met him and he said that Jacob A. Long had stopped it and was not going to let it be done.

Q. Do you know anything more about Holt? A. Well, only what I heard said about it.

Q. Do you know anything about his being punished—do you have any personal knowledge of it? A. No, sir.

Q. Do you know anything about the shooting matter of Holt? A. No, sir, I know nothing about it.

Q. You never heard any of them talking about it? A. No, sir, I never heard any of them say anything about shooting.

Q. Go on to the next time—go on and tell us anything more you know? A. I don't recollect the next meeting I was at. I was at some others after that. I think there were some others after that. I cannot bring it in just the way it was.

Q. I don't care how you bring it in. If there was anything at other meetings tell what was ordered, and all you know that had been whipped? A. I think the next thing I recollect was Thomas Gray wrote a letter to Mr. Badham. John A. Trollinger gave me the letter, and told me he wanted that letter carried and thrown into Mr. Badham's yard, and I went to carry the letter. William Kirkpatrick and Walter Thornton went with me. We got a stick and split it and put the letter in it, and walked on through Graham and got opposite his house, and Walter Thornton throws the letter against his door and we ran—ran out of town.

Q. Do you remember what was in the letter? A. No, sir, I don't remember; it was directed to him and Peter Harding. There was some disturbance—he had been trying to find out

something about the Kuklux and had right smart to do wi
and I supposed it was ——

Mr. Manager SPARROW. Never mind about what
supposed.

Q. Did you read the letter? A. No, sir, I did not read
letter.

Q. Did you hear it read? A. No, sir, I did not hear
letter read; they told me through.

Q. What did they tell you? A. They told me it was bec
he had meddled with the Kuklux.

Q. That the letter was thrown there? A. Yes, sir.

Q. What was the object of throwing the letter over, did
tell you? A. It was to scare him and keep him from hav
anything more to do with it, and show him what would be d
with him if he meddled any more with the Kuklux.

Q. You say it was something about Peter Harding, too?
Yes, sir.

Q. Tell when that was thrown in there as well as you c
A. I think it was thrown either in March or the last of Fe
ary.

Q. What year? A. 1869.

Q. Do you know anything more? A. Well, sir, I wa
several meetings after that. I think I was at a country mee
after that below Graham.

Q. Tell all you know about that? A. Close to the s
place that we were at first. It was a rainy night and there
not many come there. There was several of the chiefs th

Q. Tell what chiefs were there then? A. Jasper N. W
was there and Trollinger and Anthony and Jacob A. Long
Dr. John A. Moore were there at that meeting.

H. How many do you think met there? A. I don't th
there were over twenty met there that night.

Q. Go on and tell anything else you know they said?
They did not think there ought to be any more whipp
done— if here was anything done it should be to hang or

them out of the way, but there ought not to be any more of those matters taken up that were not worth hanging for.

Q. They didn't think there ought to be any more whipping done? A. No, sir.

Q. There ought not to be any meddling except in the way of hanging thereafter? A. Yes, sir.

Q. Tell anything else you know? A. Well, after that I think Daniel Worth's school-house was burnt.

Q. Tell all you know about Daniel Worth's school-house? A. Well I waa at work at Company Shops and John T. Trollinger kept a bar room up close to Dr. John A. Moore's. I was going by there home, and he told me that he wanted me to come back there that night on some particular business.

Q. [By Mr. Graham.] Who? A. John T. Trollinger. I asked him what it was, and he did not tell me, but he said he wanted me to come back—he wanted somebody that didn't have so much cowardice about them as others had. I goes up there that night and stayed there until about betwixt 10 and 11 o'clock, I think, and he told me what he wanted then.

Q. How do you fix the time of night? A. Well, I got there, I think, about 9 o'clock.

Q. Anything about the trains? A. Yes, sir, the train left there then. I think it was either half after 10 or half after 11. We stayed there in the back room. I was not in the bar room. We stayed in the back room until after the train went up about an hour, and John T. Trollinger said that he wanted us for to—my understanding was ——

Mr. GRAHAM. We do not want any understandings. We want only what took place.

The WITNESS. My understanding is ——

Mr. GRAHAM. We don't want any understanding. Tell what conversation took place.

Q. Tell what was said and done? A. He said that he wanted me to burn a house for them. As to whose house it was he did not give me satisfaction that it was Daniel Worth's

school house at first. After awhile he told me it wa
and I told him I didn't want to have anything to do w
He told me I must—that it was an order from the camp.

Q. What camp? A. He never said what camp.
wards Thomas Gray got a jar of kerosene oil and a large s
and we went on across the railroad to Priestly Ross's
Ross it is now—Priestly is dead. We went on down
school house and Tom Gray told me he wanted me t
watch. I gets on the fence and watches there till he goe
to the house. We sat there a few minutes—half an h
suppose—and looked around. He said he would bur
house in defiance of the devil—"God or the devil" I thin
the expression, and he goes over and takes the oil and s
it all up on the ceiling and in the weather boarding and
and the balance of it down on the porch floor—a part of
the bag that he had the oil wrapped up in, and I said,
Gray, for God's sake don't burn that house." The first
went out. He said, "I will burn it in defiance of Jesus Ch
and the second match he struck the house lit the oil and it
fire. We ran as fast as we could and the house was in fl
We ran to John T. Trollinger's bar room and went in the
way and got in there. In a few moments they cried ou
and we went out to the fire.

Q. They cried out fire soon after you got in at th
room? A. Yes, sir.

Q. And you went out to the fire? A. Yes, sir.

Q. What did you do when you got to the fire? A.
helped throw down the fence that stood there—standi
front of the house.

Q. Tell whether the house was burnt down or not?
Yes, sir, it was all burnt to ashes. There was a northern
kept school in the house by the name of Meader.

Q. Do you know why they burnt it—did they tell you?
Well, the excuse was ——

Q. [By Mr. Graham.] Whom did you hear that from?
John T. Trollinger,

Q. What did he say was the reason? A. That they had been keeping a negro school in there, and that this man had been teaching white children in the day time, and darkies at night.

Q. That is what Trollinger told you? A. Yes, sir, and before that he said that Van Holt and Tom Gray had set the darkies' school house on fire, or made an attempt to set that on fire but it went out, that they would have burnt that had it not been that Van Holt ran—that he was such a coward that he would not stay there, but he was afraid to do the work.

Q. Do you know anything more about the mischief done there—any whippings or any other mischief that you have not told of. A. Yes, sir, there are several things that I don't recollect.

Q. Do you know anything about Nathan Trollinger? A. Yes, sir, he lived about half a mile from where I did. The night that the coffin was made or carried Fogleman and Mr. Andrews told me——

Q. Which Andrews and which Fogleman? A. W. M. Andrews and William Fogleman.

Q. What did they tell you? They told me that they had carried the coffin—they waded the river there at Sellars' mill, got the three Fogleman's and went and took Nathan Trollinger out and carried him about—it is not a quarter, I think, hardly, from the west of the house, and gave him a thrashing and made him take out his privates and stick a knife through it.

Q. What was that—make him do what? A. Told him to take out his penis and stuck a knife through it five or six times.

Q. Do you know anything about Carter Smith's son? A. No, sir, I don't know anything about it.

Q. Any whipping? A. I don't know anything about Cartter Smith's son,

Q. Do you recollect any more? A. I don't know that I do.

Q. Do you know anything about a school teacher being whipped at Company Shops. A. Corliss?

Q. Corliss? A. I don't think that was while I was there.

That was after I was out of the organization. I knew h
whipped.

Q. How do you know that? I saw his back and
They looked like he had been whipped.

Q. How long after he was whipped? A. About three

Q. State whether he was badly whipped or not? A. F
badly whipped—his head was scarred here and shaved
doctor had shaved his head to dress the wounds.

Q. What doctor? A. Doctor Moore, I think.

Q. You saw his back—how was his back? A. It was p
badly whipped.

Q. Do you know of any more? A. I know of a great
that were said to be whipped.

Q. Did you hear talk about it—did you hear any meml
the organization say anything about it—mention who it
they said they whipped, if any—do you know anything
a man by the name of Rippey? A. Leonard Rippey.

Q. I don't understand what his name is, I understand
whipped two of them? A. I heard Mr. Boone said that h
been whipped.

Q. Who is Boone? A. He is a member of the orga
tion.

Q. Tell what he said about it? A. He said to me that
had taken him out and had given him a whipping—he
staying at a colored man's home I think that night. He ca
somewhere close and they found him at a colored man's
and whippped him. He said they made the colored ma
down on his all-fours and made him take his nose——

Q. Never mind that. A. They told me——

Q. You need not name it. Do you know anything
the other Rippey? Did you hear any of them speak of
A. No, sir, I think not.

Q. Do you know anything about George Rippey, a co
man that was whipped and went off and died? A. Tha
Nathan Trollinger, that went off and died.

Q. That is not the one I speak of, there was a Rippey

went off. Do you know what became of Nathan Trollinger? A. He went west and died.

Q. Did you see him after he was whipped? A. Yes, sir.

Q. Tell what sort of a whipping he had? A. Well, he had had a very severe whipping and been cut with a knife in his privates.

Q. Is there any other one you know anything about being whipped that you have not named? A. No, sir, I think not.

Q. Do you know anything about William F. Simpson? A. No, sir, he lived out north from me a good ways.

Q. Do you know anything about anybody being whipped up in Chatham? A. No, sir, I was in Alabama. There was a young man told me out there——

Mr. GRAHAM. Never mind.

Q. Who was he? A. Well, sir, I was telling you what he told me he done in Chatham.

Mr. GRAHAM. I object to it.

Q. How long did this organization continue? Do you know? A. I was in it about twelve months I think. I was bluffed out of it for some case or other. Me and Mr. Andrews had a fuss, I think that was the cause of it.

Q. Do you know how long it existed after you were bluffed out? Do you know anything about it? A. Only what I heard.

Q. From whom? Members of the body? A. Mr. William Fields a member in Chatham county.

Q. What did he tell you?

Mr. GRAHAM. I object to anything from him, sir.

Mr. BOYDEN. On what ground?

The WITNESS. Then, of course, I know nothing about it—I was out of the organization then.

Mr. GRAHAM. He is in Chatham, and is out of Alamance, and facts existing there have nothing to do with the organization in Alamance.

Q. Tell all you know about this organization now, whether

it extended any further than Alamance; what you heard fro
members.

Mr. BRAGG. We object to that.

Mr. BOYDEN. The proposition now is, to ask him if l
knows from members of the organization whether it extend
into other counties. I desire to know if he heard from a
head men or chiefs of camps, whether this organization e
tended into other counties in the state, and if so, what co
ties.

The CHIEF JUSTICE. Just put your question in writi

Mr. McCORKLE. I have drawn the question in this for

"Did you hear any chiefs or other officers of the Wh
Brotherhood say the organization existed in other counties
sides Caswell and Alamance, if so, what other counties?"

The CHIEF JUSTICE. The presiding officer would l
to hear the counsel for the managers on the admissibility
the question.

Senator GRAHAM, of Orange. I submit, Mr. Chief J
tice, that the senate has already decided once upon the adm
sibility of such proof, and I do not think they desire to reve
their decision.

The CHIEF JUSTICE. It is a matter of doubt whet
the question has been decided or not. At the time the sen
made its decision it had not been proved that the organizat
existed in Alamance county. The presiding officer would l
to hear the counsel for the managers on the question.

Mr. BOYDEN. This is the question:

"Did you hear any of the chiefs of the White Brotherh
"say that said organization existed in the counties adjoin
"Caswell and Alamance." We have modified it to that fo

Mr. GRAHAM. Mr. Chief Justice, it has been distin
decided by this court that the question whether or not any s
organization existed outside of the county of Alamance
not a matter to be considered on this trial. This is but
mode of attempting to prove that fact, that is by conversati
which they say persons in Alamance had. It sheds no li

upon the question of whether the counties of Alamance or Caswell were in a state of insurrection at all. The question which is propounded here is the identical question the admissibility of which was decided a few days since.

Mr. MERRIMON. We object to the question, Mr. Chief Justice, upon the ground that its admissibility has been already decided by this court. I do not care to go into a discussion of it, but I wish to refer to what took place on the former occasion. On page 564 of the printed journal of proceedings, I find the following:

"Q. I ask you now did you know of any secret organization "under either of the names which have been mentioned in the "course of the trial, or any other names? Mr. Graham: You "mean in the county of Alamance. Mr. Boyden: Anywhere. "Mr. Graham: I object to the question beyond the county of "Alamance. They are the people who have been denounced "and imprisoned as in insurrection against the law, and the "inquiry is whether they were connected with anything of the "sort." Then follows the debate, and on page 567 will be found the vote on the admission of the testimony recorded, the result being yeas 13, nays 30. I have nothing further to say.

Mr. SMITH. Mr. Chief Justice and Senators, that vote, as I understood it, was taken on the proposition when there had been no evidence whatever introduced of the existence of any organization in the counties of Alamance and Caswell. It was an attempt to prove the existence of the organization elsewhere, when no proof had been adduced showing the existence of it in the counties proclaimed in insurrection, as a part of the whole. Since that time we have shown the fact that this organization passed over county lines, and in some instances have shown outrages perpetrated in Orange and Chatham by men residing in Alamance. We have shown the organization consisted of these department branches, not only co-extensive with Alamance, but taking in contiguous counties, and if we can show the existence of these organizations banded together within

in subjection, but if they numbered hundre
adjoining counties enough more to increase
or to 5,000 it is evident that it would requ
force and organization to keep this illegal
These numbers would be much larger, thei
chief much greater, and a larger force wo
overcome the order in the single county
mance than if contiguous counties did n
established to come to their aid.

The CHIEF JUSTICE. The presidin
that as he understood the vote heretofore ta
points, one was that the senate was not disp
particular facts outside of the counties of A
well—whippings, hangings &c. As the
understood it at the time the vote was take
that, inasmuch as no organization of the kin
to exist in the county of Alamance, the
prove their case by showing the existence
county of Guilford. Now the presiding offi
is altered. It having been proved that the
Alamance, he is of the opinion that it is com
existence of the same organization in other
however, admitting proof of particular facts

question embraces both the counties of Alamance and Caswell. There has been no evidence adduced to show the existence of any such organization in the county of Caswell.

Mr. BOYDEN. We are willing to strike out Caswell.

Mr. SMITH. There has been proof of the existence of it in Caswell. It was sworn to by Mr. Wilkinson, that a party rode to his house one night, and it has been proved by one witness that he was whipped by a party of men partly from Caswell.

Mr. BRAGG. I hope the counsel will understand that I do not admit that the question is proper to be asked even if Caswell is stricken out.

The CHIEF JUSTICE. The clerk will read the question.

The CLERK read the question as further modified in the following words:

"Did you hear any of the chiefs or other officers of the White Brotherhood say that said organization existed in any adjoining counties to Alamance.

The CLERK proceeded to call the roll of senators upon admitting the question, and it was decided in the negative by the following vote:

Those voting in the affirmative are:

Messrs. Beasley, Bellamy, Brogden, Eppes, Flythe, Hawkins, Hyman, King, Lehman, Moore.—10.

Those voting in the negative are:

Messrs. Adams, Albright, Allen, Battle, Brown, Cook, Council, Crowell, Dargan, Edwards, Flemming, Gilmer, Graham, of Alamance, Graham, of Orange, Jones, Latham, Ledbetter, Linney, Love, Mauney, McClammy, McCotter, Merrimon, Morehead, Murphy, Robbins, of Davidson, Robbins, of Rowan, Skinner, Speed, Waddell, Warren, Whiteside, Worth.—33.

By Mr. BOYDEN (resuming:)

Q. When was the last time you met Sheriff Murray in the camp—you can mention how late you knew him to be in the organization.

Mr. GRAHAM. I hope the witness will not be led.

Mr. BOYDEN. I will enquire of the counsel how th question is leading; it does not call for an answer yes or n

Mr. GRAHAM. But it suggests to the witness that h to make this time as late as possible.

The CHIEF JUSTICE. The witness will answer the q tion.

A. I think the last meeting I met him at was at a co meeting.

Q. Where at? A. Below Graham, sometime the 1st M or the last of February.

Q. What year? A. 1869.

Q. State whether you know how long he was in the or zation? A. That is from the time I went into the orga tion?—he was chief——

Q. How long did he continue? A. That is as long know. He continued from 1868 to 1869.

Q. Do you know of his having been in the organization that? A. No, sir.

Q. Do you know about the hanging of Outlaw or the dro ing of Puryear from any member of the company? A. Jo Kirkpatrick told me after Col. Kirk had come to Comp Shops——

The CHIEF JUSTICE. That is not admissible.

Q. Do you know anything about it yourself, or from w you heard before Kirk came there? A. No, sir.

Q. And nothing about Puryear's drowning? A. No, si

Q. Where were you when Outlaw was hanged? A. I at home north of Company Shops.

Q. How long after that before Puryear was drowned? I really don't know—a short time.

Q. State if you heard anything about the time he was h either before or after? A. I never heard anything about being hung.

Q. State whether you have left Alamance, and what left it for, as to whether any threats have been made?

eft Alamance this January because I was afraid to stay there.

Q. Afraid of what? A. I was afraid I would be murdered. One time at Gibsonville ——

Mr. GRAHAM. We object to the witness stating the facts. We think it is only admissible for him to swear to his fears.

Q. Who threatened you? A. A man named Woodige.

Q. Was he a member? A. They said he was.

Q. That was before you had been to court here? A. Yes, sir. A man by the name of Waring and Brown ——

Q. State what they did to you about the time you left Graham?

[The answer to this question having been ruled incompetent the stenographer was directed to strike it out.]

*Cross-Examination.*

By Mr. MERRIMON:

Q. Who administered the oath to you? A. John T. Trollinger.

Q. Where is he? A. I don't know I have not seen him since I came from Alabama.

Q. Didn't that oath require by its terms that you should do all you could to overturn the republican party? A. Yes, sir.

Q. Did it not also require that you should do all in your power forcibly or otherwise to deprive the negroes of their civil rights under the constitution? A. Let us hear that again, I don't understand.

Didn't your oath also require that you should do all in your power by force or otherwise to deprive negroes of their civil rights? A. Yes, sir.

Q. It did? A. Yes, sir.

Q. Didn't it also require you to defend members of the organization by force? A. They said to defend at the risk of life by force or any other way.

Q. Didn't it also require that if any of the brotherhood were indicted for an offence the others should come into court and swear to a lie? A. They required them to hang around

the jury and get on a juries and bring in a verdict in the prisoners.

Q. Find a false verdict? A. Yes, sir, it required— for instance, if you should go out and whip somebo was necessary to get you clear I should swear that you my house.

Q. You would be bound to do that in court? A. U oath I would.

Q. The oath provided that you would be bound to was charged, that I was not where the offence was con A. Yes, sir.

Q. You are sure of that? A. Yes sir.

Q. You are satisfied with your answer? A. That i we should bring out a verdict in favor of the prisoner.

Q. You were ready to do that at any time until y chousted out of the organization? A. No, sir.

Q. Then what did it amount to? A. It did not an that much with me.

Q. Didn't you co-operate with them? A. I did n erate in swearing lies with them.

Q. Didn't you swear you would swear to a lie if n A. I did not swear to any lies, or anything of that kin

Q. Did not you swear that you would swear to a lie be. A. Yes, sir, I had to after the oath was started, have been hung.

Q. Did not you swear that you would swear to a lie be, answer the question? A. (After hesitating.) I did I would swear to a lie in court.

Q. Didn't you swear that you would find a false v need be? A. I swore in that oath that I would ——

Q. Did not you swear that you would get around and get the sheriff to put you on the jury, and find a fa dict if need be? A. I don't know, when I swore, th was the oath they administered. I do not think I s tell a lie for them.

Q. You did not take an oath? A. I took it to a certain degree ——

Q. Didn't you execute an obligation to whenever you were required—was not that imposed upon you by the oath? A. I never executed an oath to swear to a lie.

Q. You swear it did not require you to do that? A. No, sir, I would not.

Q. But you swore you would? A. I don't think I ever would swear to a lie.

Q. Did you not swear that you would obey the orders of the camp? A. Yes, sir.

Q. Did you not help burn Worth's school house? A. Yes, sir.

Q. You went to that fire? A. Yes, sir.

Q. You would burn a house but you would not swear to a lie in court? A. I would not swear to a lie in court.

Q. Why is that? Why do you make that distinction—isn't it as great a crime to burn a school house as it would be to swear to a lie? A. No, sir, I don't think it is.

Q. It is not quite as big? A. No, sir.

Q. You could burn a school house? A. I did not burn the school house.

Q. You went there and helped? A. I never helped; I never burned it.

Q. Did you watch? A. I went to the fence and watched.

Q. Did you go for the purpose of watching? A. I did not go for the purpose of burning the school house; I went with Thomas Gray and watched for him. I went with him.

Q. If they had ordered you to murder a man would you not murder him? A. Not if I could get around it.

Q. Did you not swear before the chief justice that you would have committed murder if you had been ordered? A. If the chief ordered me I would have to.

Q. Would you not? A. If he ordered me I would.

Q. Suppose the chief ordered you to swear to a lie, would you not do it? A. Not in court, I would not.

Q. You would kill a man but v
If the chief ordered me.

Q. If he had ordered you to sw
done it? A. I wonld not.

Q. If the chief had ordered yo
have burnt it?

Q. If the chief had ordered yo
the jusy and find a false verdict y
verdict? A. I never had a trial

Q. You would have done that-
by your obligation? A. If I ha
tion I would have been bound to.

Q. Had you not gone into it wi
out your obligation? A. I was
of it.

Q. Were you not a very zealou
very many things? A. I acted
some who acted in as many as I d

Q. You were present at most o
were you not? A. A good man
I was.

Q. Were you not very active,
you because you were active and
whether they did or not. They
on the rest.

Q. That night when they concl
that Doctor Tarpley stated that d
you not vote that night? A. I di

Q. You did not vote? A. I di

Q. Was it not put to a vote? A

Q. Why did you not vote? A
on killing people.

Q. Why did you not vote "n
I did not know how it would be.
carry it out the way they wanted.

Q. You did not want people ki

different about it that you did not care to vote? A. I did not vote "aye"—did not vote "yes."

Q. You were indifferent about it? A. I dont know any difference. I didn't ——

Q. You do not know any reason? A. I don't know that it is any difference to anybody why I did not.

Q. Was it now another object of this organization and was it not provided in the oath that this brotherhood was to uphold the constitution of the United States as it was before the fourteenth amendment and the rights of the negroes was put in? A. How is that?

Q. Was it not one of the objects and was it not sworn by the brotherhood to uphold the constitution of the United States as it was before the rights of the negroes were provided for? A. I do not understand that exactly.

Q. Wasn't a part of the obligation that negres were to be deprived of the rights they had under the constitution? A. Yes, sir.

Q. That they were to be deprived of their political and civil rights? A. Yes, sir.

Q. Did a part of it say that that was the chief purpose of it? A. The chief purpose of it was as I understood it to keep the negroes from elevating themselves to white people and keep them from going to the polls and voting and to overthrow the republican party.

Q. It was to deprive them of their rights as citizens, was that it? A. I told you once.

Q. Answer it again. I have a right to it and whenever I am wrong the court will stop me? A. I don't know whether I said about citizens or not.

Q. Were they to be deprived of their rights given to them by the results of the war? A. I suppose it was.

Q. Are you sure about it? Was not that the main object to keep them voting? A. The object was to keep them from going to the polls and voting and keeping them from elevating themselves to white people.

Q. Was it to deprive them of th
sir, and to overthrow the republica
Q. To keep them down by fo
and scaring them before the electio
Q. And to kill them—were they
did not say anything about killing.
Q. Whipping? A. I did not sa
but keeping them from voting.
Q. That forcible means were to
voting? A. Yes, sir.
Q. You are satisfied about that?
Q. You say there was a vote to
they all vote for it? A. There w
and some didn't vote against it.
Q. Was it a unanimous vote? A
it and most voted for it.
Q. Did some vote against it? A
vote at all.
Q. Were you not required to vot
man who goes to the election, he ca
or not vote at all.
Q. But the vote you say was un
Q. That Caswell Holt should be
Q. Was it a unanimous vote or
a good many there and there may
or against it.
Q. How did you vote, against it
I possibly could that——
Q. You can say whether you di
nary a one that voted against it.
Q. You stated a while ago that a f
it? A. No, sir, I did not state th
not have voted. I know what I s
Q. Did you tell the chief justice
a big crowd of about four hundred
A. Did I tell him do you mean?

Q. Yes, sir. A. Yes, sir.

Q. You are sure of that? A. Yes, sir.

Q. It was a county meeting? A. Yes, sir.

Q. Did you state all the chiefs were present? A. I did not say all were present. I have never stated that.

Q. Most of them? A. A majority of them were present.

Q. Did you not tell the chief justice that there were six hundred present? A. I did not.

Q. Are you sure that you did not tell the chief justice there were six hundred? A. Yes, sir.

Q. How many did you tell the chief justice there were there? A. I told him from two to four hundred, to the best of my knowledge.

Q. You are sure you told him about it? A. I am sure I told him about it.

Q. How came you to swear there were seven hundred to-day? A. I did not swear there were seven hundred being at that that meeting, to-day.

Q. You said there were seven hundred in the county? A. I said there were from six to seven hundred in the county.

Q. How do you know you said that before? A. I recollect it.

Q. How do you recollect it? A. I recollect it. Do you never recollect anything?

Q. My recollection has nothing to do with it? A. My recollection is good enough to recollect that.

Q. About the burning of Worth's school house—did he tell you what he wanted of you? A. He did not until I went back up there that night.

Q. Did you not go back to young Kirkpatrick, and ask him to go with you to burn the school house? A. I did not.

Q. You swear you did not—I mean the son of the widow Kirkpatrick? A. I know who he is.

Q. Did you not ask him to come with you? A. No, sir.

Q. Do you swear to that? A. I do.

Q. Did you ask him? A. I told him that John T. T
linger told me to ask him to come down.

Q. Did you not tell him you wanted him to burn Wo
school house? A. No, sir.

Q. You swear to that? A. I told him just ——

Q. I put you on your guard? A. I told him that Joh
Trollinger told me to tell him to come up there that night.

Q. Did you not tell him also that you wanted him t
with you and burn the school house? A. No, sir.

Q. You swear you did not? A. Yes, sir, I say I never
anything about burningthe school house. I told him that J
T. Trollinger told me to tell him to come there, no mor
less.

Q. When did you get out of this organization? A. It
in 1869.

Q. What time in 1869? A. I think some time about
or June. I don't recollect when it was.

Q. Was it in May or June that you got out? A. It
have been later, it was not any earlier. I don't recollect w
time I got out. Mr .Andrews and I had a fuss and I ne
got back into it anymore. I think it was sometime in Ju
It stopped awhile.

Q. In June, 1869? A. Yes, sir.

Q. The matters you have told about here happened bef
that time? A. Yes, sir, they happened before.

Q. How did you happen to get out of the order, did
have a controversy with some of the members? A. I told
that Mr. Andrews and I had a fuss and they re-organized —

Q. Who was he? A. Deputy sheriff of the county.

Q. Of your county? A. Yes, sir.

Q. You and he had a fuss and they put you out? A. Y
sir, I suppose they did. I was not taken into the Constitutio
Union Guards. He told Walter Thornton that they w
going to reorganize ——

Q. Do you know whether the White Brotherhood was

organized sometime in the spring of 1869? A. No sir, I do not know.

Q. Was it talked of at any meeting before that? A. No, sir.

Q. You never heard of it? A. No, sir.

Q. Were you examined before the chief justice last summer? A. Yes, sir.

Q. Very often? A. Not very often.

Q. Were you not examined upon a good many ocaasions? A. I think I was examined twice or probably three times. I will not be positive.

Q. Were you not a standing witness in the proceedings before the chief justice, and did not they keep you here for a long time? A. I was here for fourteen days, I think. I was not a witness every day—I was not before him every day.

Q. You were examined in a good many cases—more than anybody else? A. I don't know that I was.

Q. You do not know that you were? A. I may have been.

Q. Don't you know you were examined in more cases than anybody else? A. I know I was examined twice or three times. I know I recollect twice, and it may have been three times.

Q. How much pay did you get for attendance? A. I never got nary cent, sir.

Q. Why didn't you get it? A. I would like to have it, now.

Q. Why didn't you get it? A. Because they did not have any money, it was said.

Q. How did you happen to come here this time—who brought you? A. I was telegraphed for.

Q. Where to? A. To Huntsville, Alabama.

Q. Have you been to Washington lately? A. No, sir.

Q. You came here from Huntsville, Alabama. A. Yes, sir.

Q. How much were you paid for coming? A. I came here on my own cost.

Q. How much are you to be paid? A. I suppose if I get anything I will get my mileage. Nothing else that I know of.

Q. Are you not to get a fee? A. No, sir.

Q. Is not a certain sum of money to be paid you? A. I sir, nothing has been said about it.

Q. Who furnished you the money to come? A. Mr. Ru furnished me some, and I had a part of it myself.

Q. Who is Mr. Rugg? A. The postmaster.

Q. Postmaster where? A. Huntsville, Alabama.

Q. You have not been paid anything for coming? A. He g me some money to help me pay my expenses. I did not h enough to come on.

Q. Where did he get it? A. He had it of his own reckon. He said he would lend it to me.

Q. How come you to go to Mr. Rugg or Mr. Rugg, or w ever his name is? A. I did not go to him but he sent for

Q. How came he to send for you? A. I enquired for let in the post office and he sent a note care of Colonel May gentleman I was working for, and when he went to the p office to get the letter he found the note and brought it to and it asked me to go and see Mr. Rugg.

Q. Did you go and see him? A. Yes, sir, he asked if had had any trouble in North Carolina. I told him we and asked me if I had not had some where I lived.

Q. You are a troublesome chap? A. Most of us I think He asked me if I had not had some trouble with the Kul and I told him that I had, and he showed me a dispatch.

Q. And he gave you money? Where did he tell you he it from? A. He never told me where he got it.

Q. He did not tell you where he got it? A. No, sir.

Q. I ask you if you have not received money as a consid tion for coming here? A. I told you that I had not recei anything for coming here last year.

Q. I am asking about now? A. I say that Mr. Rugg g me some money to come on.

Q. How much did he give you? A. I don't know as t is the bargain here.

Q. How much did he give you—no matter whether it i

any bargain or not, just tell? A. I got a hundred dollars from him.

Q. Who went security for the money? A. My face—I am good for the money.

Q. Your face went your security? A. Yes, sir, I run my face for it.

Q. Did you give him any note for it? A. Yes, sir.

Q. You gave him your note? A. Yes, sir.

Q. Nobody went your security? A. I told you once that they did not.

Q. Have you been promised any money for coming here? A. I haven't been promised nary cent.

Q. You don't expect to receive a cent? A. I do; if I did not, I don't think it would be right.

Q. Who summoned you? A. Mr. Rugg summoned me.

Q. For whom? A. I was summoned to go to Washington and I was to come and report to Mr. Boyden on my way to Washington City.

Q. You were summoned to report to Mr. Boyden on your way to Washington? A. Yes, sir.

Q. How came that arrangement to be made? A. You certainly know more about it than I do, for I wan't here.

Q. What do you know? A. I did not know anything about coming and the arrangements that were made, I wasn't anxious to come for I was doing well.

Q. You were getting rich? A. I was not getting rich but I was getting four or five dollars—

Q. Where did you stay last summer when you were here? A. At the hotel.

Q. Who paid your bill? A. A part of it has not been paid yet.

Q. Who paid what was paid? A. Mr. Badger let me have ten dollars—loaned it to me.

Q. Did you give him a note for it? A. No, sir, I did not give him no note.

Q. Where did you get some more money? I did not get any more anywhere.

Q. Did you pay your bill? A. I told you it was not all paid

Q. How much remains unpaid—did you use up the ten dollars in paying your bill? A. Maybe more than that; I don't recollect.

Q. I ask you if you did not pay all your bill? A. No, sir

Q. You swear to that? A. Yes, sir.

Q. You swear you did not pay your bill? A. I did not pay it all, but I expect to pay it.

Q. How much remains unpaid? A. I don't know.

Q. Did you give your note for it? A. I believe I did.

Q. You paid ten dollars,—that is all you paid? A. I was down here once or twice—I believe it was.

Q. Ten dollars was all you paid? A. Yes, sir.

Mr. SMITH. Mr. Chief Justice, I really do not see the pertinency of whether the witness has paid his bill at the hotel or not. I desire to say also that I think it is hardly proper for the counsel to be constantly reminding the witness that he is under oath. The witness has been sworn, and it is supposed that he realizes the fact that he is under oath.

Mr. MERRIMON. I am very much obliged to my friend for his ethical lecture. I wish him to understand that I am examining this witness—if I am examining him wrong the court will interrupt me and inform me of the fact. If the gentleman thinks that this is an effort on my part to cast an imputation on the witness I desire to tell him squarely that I mean to impeach him, that such is the purpose of my examination.

The CHIEF JUSTICE. The presiding officer does not think the counsel has overstepped the limits allowed a cross-examination.

Mr. SMITH. I desire to make a remark personal to myself. The witness was introduced by us and it is our duty to see that his cross-examination shall be conducted in accordance with the rules and it was with that view that I interposed the objection.

I did not intend to read the gentleman a "lecture" for he can act according to his convictions.

Mr. MERRIMON. The chief justice has stated that I was examining the witness within the rule.

The CHIEF JUSTICE. You can go on.

Q. Have you examined what you swore to before the chief justice last summer since you came here? A. I looked over one page. I have looked over nothing else.

Q. You have only looked at one page? A. Yes, sir.

Q. Didn't you read more than one page? A. No, sir.

Q. Did anybody read it to you? A. 'Nary man.

Q. Has anybody talked to you about this matter since you came here other than the counsel? A. No, sir.

Q. Are you sure of that? A. Yes, sir.

Q. You are sure you have not talked with anybody as to what you swore to since you came here? A. No, sir.

Q. Not even the counsel? A. I don't say that.

Q. I ask you whether you were not charged with and arrested for stealing some flour from a colored man in the county of Alamance—George Ruffin? A. I was charged.

Q. Were you arrested for it? A. Yes, sir, and I proved myself clear of it.

Q. Didn't you pay for it? A. No, sir, Mr. Green Andrews said that George Ruffin the colored man was not able to pay the costs and if I would pay half of it he would drop it, and that it would be better not to carry it on.

Q. The negro charged you with stealing his flour? A. Yes, sir.

Q. And he sued out a warrant and had you arrested? A. Yes, sir.

Q. And then it was compromised? A. Mr. Andrews compromised it.

Q. Did you pay one half of the costs? A. I paid one dollar and a quarter and the negro was to pay the balance?

Q. How much was the balance? A. Two or three dollars.

Q. How long was that before you left the state? A about five or six months. I will not be positive.

Q. Was it after what happened here last summer was little before.

Q. Was it in June or July? A. I don't know w was or not.

Q. Give it as near as you can. A. It was one or t month—June or July, I don't remember which.

Q. I ask you also whether you were not charged county of Alamance with stealing a hog? A. Never.

Q, You never was? A. No, sir.

Q. You swear to that? A. Yes, sir. I never heard thing about my stealing a hog, only William Kirkpatr me that Ben. Freshwater told him that——

Q. I don't mean whether you were ever arrested for a hog but weren't you charged in the neighborhood wit ing it? A. I never heard of any charge of stealin until it was stated in Mr. Turner's paper.

Q. Have you not been called "hog thief John Long Yes, sir, the Kuklux have said that I stole a hog. I s man afterwards who was said to have had the hog stol he said he never had one died and he never had one stol

Q. What was his name? A. Ed. Teague.

Q. Where does he live? A. At Company Shops.

Q. Did you say it was June, 1869, that you quit the Brotherhood? A. I don't think I said positively it wa or May. I don't know which month it was.

Q. When you joined? A. When I joined I reckon in December or November, 1868.

Q. How long did you stay in? A. I told you I sta until May or June, I think.

Q. The next year? A. Yes, sir.

Q. Did you not say a while ago that you stayed in it t months? A. No, sir.

Q. I understood you to say that all these transactions

place before the time you severed your connection with it and went out? A. Those I speak of did.

Q. Did you bring this disguise which you put on from Alabama? A. No. sir, the disguise was here last summer.

*Re-Direct Examination.*

By Mr. BOYDEN:

Q. You say you were summoned to Washington? A. Yes, sir.

Q. By telegraph? A. Yes, sir.

Q. Have you got the telegram with you? A. Yes, sir.

Q. Will you produce it?

The WITNESS produced the telegram, which was read by the clerk, in the words following:

WASHINGTON, D. C., Feb. 23, 1871.

Received at Huntsville, Alabama, Feb. 23.

To W. A. LONG, formerly of N. C.,

Care COL. D. C. RUGG,

Postmaster.

You are wanted here immediately as a witness by Senate Committee investigating outrages in southern States.

JNO. R. FRENCH,

Serg't-at-Arms U. S. Senate.

Q. You were told to come up here and report to me. [Mr. Boyden?] A. Yes, sir, it is on the back of the envelope that I should report to Nathaniel Boyden.

The CLERK reads on the envelope "Report to Nathaniel Boyden."

Q. Who put that on it? A. I do not know, sir.

Q. You say you live near this place Huntsville? A. Yes, sir.

Q. With whom? A. I was living with Mr. Horton.

Q. And you say you got news that there was a letter in the post office? A. Yes, sir, here is ——

Q. [By the Chief Justice.] Never mind the letter! I
He sent me a note to come to the post office.

Q. Who sent you the note? A. Mr. Rugg.

Q. What did you do then? A. I went to the post offic

Q. What then? A. He showed me this dispatch.

Q. And he furnished you $100? A. Yes, sir.

Q. And you gave your note for it? A. Yes, sir.

Q. You didn't want to come on this trip? A. No, si
told them I didn't want to come on.

Q. Had you ever received any communication from No
Carolina about this? A. Nary a word.

Q. Did you know this investigation was going on?
No, sir.

Q. You say this money was loaned to you by the p
master? A. Yes, sir, I had money enough, I suppose, to c
on with, but he said I had better take it for fear of acciden

Q. You had money enough of your own to come on?
Yes, sir.

Q. But he advised you to take that for fear it might no
enough? A. Yes, sir.

Q. You gave him your note? A. Yes, sir.

Q. You have not been promised any money? A. N
cent.

Q. And you expect to get what? A. My witness fees.

Q. You don't expect a farthing else? A. No, sir.

Q. They asked you about your hotel bill last summer w
you say Mr. Badger loaned you $10? A. Yes, sir, $10.

Q. Did you promise to pay that back? A. Yes, sir, wh
got the money to do it.

Q. You were not paid here as a witness before you left?
No, sir, I didn't have the money to pay it up.

Q. And you have not got your pay as a witness? A.
sir, I let Mr. Moore have my orders.

Q. What Mr. Moore? A. J. G. Moore.

Q. Who is he? A. He lives at Company Shops.

Q. You let him have the witness tickets to collect? A. Yes, sir.

Q. If he has got the money you do not know? A. I have not seen him.

Q. When did you arrive at Company Shops? A. Yesterday morning. I went to see my family. They didn't know I was coming on, and they were going to start yesterday for Alabama. I stopped to let them know that I was here.

Q. The counsel asked you how much you had paid on your hotel bill—do you know the exact sum? A. It was $10 I think.

Q. You think that is all you paid? A. Yes, sir.

Q. You were down here twice? A. Yes, sir.

Q. You were asked if Mr. Badger loaned you that money? A. I stated that I didn't have the money to pay the bill, and I asked him to loan it to me, and he did so.

Q. You didn't get anything for attending here last summer? A. No, sir.

Q. I understood you to say in your direct examination that you had been in the organization one year? A. Yes, sir.

Q. Do you mean about a year. You say you went in in December and went out in May or June? A. I think it was May or June.

Q. That would not amount to a year by considerable. You say you were charged by a negro with stealing flour—who was he? A. George Ruffin.

Q. Where did he live? A. He lived close to Mr. Green Andrews.

Q. Does he belong to the Kuklux? A. No, sir, he was a darkey.

Q. Tell us whether you had anything to do with stealing this flour? A. No, sir. As I came by Graham station I stepped in as it was on my way to Mr. Bob Piles' bar-room. There was Thomas Robertson, Logan Sellers and Van Holt. I stayed there fifteen or twenty minutes, I then said that I must go home, and I asked Mr. Holt if he would not go with me, he asked me how far I lived. He was a cousin of mine.

I told him that I lived three quarters of a mile and he s
"I believe I will go." We walked out of the house.
moon was shining bright and I came out and went home,
were the first ones that left the house, and the negroe's f
was sitting out at the door and they supposed that I had ta
the flour, and the next morning Mr. Green Andrews c
with a warrant and arrested me.

Q. I ask you if you did not steal it? A. No, sir, I did

Q. Do you know who did? A. I don't know who did
didn't know that it was stolen. I did not know the n
had any flour.

Q. They asked you if you didn't compromise this charg
flour stealing by paying the costs? A. Mr. Green And
took the justice of the peace out of the room after the
and they stayed fifteen or twenty minutes, and came
and said they could not do anything without the costs
paid, and that we had better compromise, that if I would
one half the costs and the negro one half they would
slide.

Q. Did you fix it in that way? A. Yes, sir.

Q. What was the reason it was fixed in that way?
just thought there would be no further trouble about it. I
not had anything to do with anything of the kind before a
thought that would be the best way to get rid of it.

Q. This charge was made after the examination down
last summer? A. No, sir, before.

Q. It was after you had made this disclosure abont the
klux? A. No, sir.

Q. What time? A. It was June or July.

Q. When did you make the disclosures about the Kuk
A. I don't recollect. It was not that early.

Q. [By the Chief Justice.] Was that before Kirk
there? A. Yes, sir, it was.

Q. The charge was made before Kirk went there? A.
sir.

Q. You were also inquired about your being charged

hog stealing? A. I never heard anything about a hog until it was in Mr. Turner's paper, and nobody else ever did. I do not know who told him.

Q. It charged you with stealing a hog? A. I heard that it was charged to have been stolen from Ed. Teague. He said he had never lost a hog and told me he was willing to swear he never had had a hog stolen or have a hog die unless he killed him and I suppose he will swear to it here.

Q. How was that telegram addressed to you? A. It was directed to me "W. A. Long."

Q. How happened it to be directed W. A. Long? A. My name is John William Arch Long, and when I left here I thought probably I would not come back, I thought probably that I would just leave off the John, and put the balance of my name. It is recorded in that way on the family bible.

Q. How is it recorded on the family bible? A. John W. A. Long.

Q. And you left off the John? A. Yes, sir.

Mr. MERRIMON. [*sotto voce* to Mr. Boyden.] I think he had better leave the Long off also.

A. The WITNESS. I didn't mean to change the Long. I can get through without changing that.

Mr. BOYDEN. There is one matter that we overlooked in the direct examination. I wish to ask the question now as to the names of persons who were arrested by Kirk, and if they didn't belong to the Kuklux.

Mr. MERRIMON. We do not consent to it with this witness.

Mr. Manager SPARROW. He will undoubtedly swear they were all members of the Kuklux.

The WITNESS, (to Mr. Sparrow.) Do you mean to say that I would swear to a lie about it?

Mr. McCORKLE. We think it is a matter of discretion with the court.

The CHIEF JUSTICE. Unless there can be some reason shown, the evidence cannot be received except by consent.

Mr. McCORKLE. It was a matter of inadverten
part.

WILLIAM C. HORNADAY, *a witness called o*
*the respondent, being duly sworn ;*

The hour of 2.30 having arrived, the court adjourn
to-morrow at eleven a. m.

## THIRTY-FIFTH DAY.

SENATE CHAMBER, March 11, 1871.

The COURT met at eleven o'clock a. m., pursuant to adjournment, Hon. R. M. Pearson, Chief Justice of the Supreme Court, in the chair.

Proceedings were opened by proclamation made in due form by the doorkeeper.

The CLERK proceeded to call the roll of senators, and the following gentlemen were found to be present:

Messrs. Adams, Albright, Allen, Battle, Bellamy, Brogden, Brown, Cook, Council, Cowles Crowell, Dargan, Edwards, Eppes, Flemming, Flythe, Gilmer, Graham, of Alamance, Hyman, King, Latham, Ledbetter, Lehman, Linney, Love, Mauney, McClammy, Merrimon, Moore, Murphy, Robbins, of Davidson, Robbins, of Rowan, Skinner, Speed, Troy, Waddell, Warren, Whiteside and Worth—39.

Senator MOORE, moved to dispense with the reading of the journal of the proceedings of yesterday.

The CHIEF JUSTICE put the question on the motion of Senator Moore, and it was decided in the affirmative.

Senator McCLAMMY offered the following order:

"*Ordered*, That on and after Monday, the 13th inst., the sessions of the court shall be from eleven p. m. to two p. m., and from three p. m. to five p. m., each day.

Senator TROY demanded the yeas and nays on the adoption of the order.

A sufficient number seconding the call of the yeas and nays were ordered.

The CLERK proceeded to call the roll on the adoption of the order of Senator McClammy and it was decided in the affirmative by the following vote:

Those who voted in the affirmative are:

Messrs. Adams, Albright, Allen, Brogden, Brown, Cook, Council, Cowles, Crowell, Dargan, Edwards, Eppes, Flemming, Flythe, Gilmer, Graham, of Alamance, Hyman, King, Latham, Ledbetter, Lehman, Linney, Love, Mauney, McClammy, Merrimon, Moore, Murphy, Robbins, of Davidson, Robbins, of Rowan, Speed, Troy, Waddell, Whiteside and Worth—35.

Those who voted in the negative are:

Messrs. Battle, Bellamy, Skinner and Warren—4.

WILLIAM HORNADAY, *a witness on behalf of the respondent, again took the stand and testified as follows:*

By Mr. BADGER:

Q. Give you age and residence? A. I am twenty-six years old and live in the county of Alamance.

Q. How long have you lived there? A. Twenty-six years.

Q. Were you born there? A. Yes, sir.

Q. State whether or not you have been subjected to whipping or otherwise maltreated by the Kuklux. If so, state all about it in your own way? A. Well, on one occasion there was a band of disguised men came to my house.

Q. State the times and places? A. It took place on the last night of December, 1869.

Q. Go on and state what took place; give all the circumstances, why they came, if you know, and all about it, what they were and how they were dressed? A. They were disguised, dressed in white, with caps on. I was awakened between the hours of eleven and twelve o'clock by their coming on the piazza in front of the house. They came to the door, I asked who was there; they made no answer, but one ordered the others to cock their pistols.

Q. You say they came to the door? A. Yes, sir.

Q. Where were you at that time? A. I was in the house.

Q. What were you doing? A. I was in bed.

Q. What was the first notice you got of them? A. The first I heard of them, they were coming in the piazza.

Q. Go on and state what you did and what they did? A. I asked who was there. They made me no reply, but one ordered the others, as I stated before, to cock their pistols, there being five or six in number, I am not positive which. I told them they had better get away from there, and they passed out then immediately around the house—right round the west end of the house and around to the north side, and one of them fired a shot in through the window.

Q. State what was the range and direction of the shot? A. It passed immediately over the bed where I had been lying.

Q. Who was in the bed at the time? A. My wife and two small children.

Q. Did you ever see them at any other time? A. No, sir, I did not.

Q. What was done after that? A. They left immediately after shooting through the window.

Q. What was their object in shooting into your house—what did they state was their object? A. Well I cannot tell.

Q. Did they state anything other than the remarks you have made? A. No, sir, nothing to me.

Q. Just fired into your window? A. Yes, sir.

Q. Did you see them at all? A. Yes, sir, I saw them as they passed around the house and saw them pass the window.

Q. Were they in ordinary Kuklux disguises as testified to here? A. Well, I can't tell. They had no horns—nothing in the shape of horns—simply caps and covering over the face.

Q. They just had their faces covered up and gowns on? A. Long white gowns.

Q. What part of Alamance do you live in? A. I live in the south western part.

Q. Towards what county? A. Towards Chatham, Randolph and Guilford.

Q. Do you know Thomas Lindsey? A. I do not, sir.

Q. Manly Lindsey? A. I do not.

Q. Don't know either of them? A. No, sir.

Q. Are you a man of property? A. I have some propel
I have some land.

Q. How much? A. About four hundred acres I suppo

Q. A wife and how many children? A. A wife and t
children.

Q. What party do you belong to? A. I vote with t
republican party.

Q. Have you ever been accused of any crime?

Mr. GRAHAM. We object to the question. The ma
has been prosecuted very far already.

Mr. BADGER. I will withdraw the question.

The CHIEF JUSTICE. The question is rather leadin

*Cross-Examination.*

By Mr. MERRIMON:

Q. Was not that a mere christmas frolic? A. I cannot
it occurred one night before new year's.

Q. Is it not the custom among the dutch round there to
around and shoot into each other's houses about christmas ti
A. Yes, sir, it it the custom. They frequently have fr
shooting around about christmas time.

Q. You don't know whether they were white or blacl
what sort of color they were? A. No, sir, I do not.

Q. They did not have the disguise on you say like
shown here yesterday? A. No, sir, it was not.

*Re-Direct Examination.*

By Mr. BADGER:

Q. Was there any ball in that pistol shot at you? A.
sir.

Mr. GRAHAM. He did not state that they shot at hin

Q. Well, from the pistol that was shot? A. Yes, sir, tl
was one ball.

Q. Please state the range and direction of that ball, and l
far it passed from your wife and children? A. Well, it pa
immediately over my wife, by the range they shot into
window and the ball went out at another, passing across

corner of the house—came into one window at the side of the house and went out at one in the end.

Q. Is it customary to shoot leaden balls into parties houses there during christmas time? A. It is not, sir.

By Mr. Manager SPARROW:

Q. What kind of a window was it, was it a glass window? A. A glass window, yes, sir.

Q. How far above the bed did the ball go? A. It passed about a foot and a half.

Q. Therefore it ranged up? A. The range was rather up.

WILLIAM A. ALBRIGHT, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. State your age, residence and profession or office? A. I was thirty-four years of age last March and will be thirty-five the 25th of this month. I reside in Alamance county and am the superior court clerk of that county.

Q. How long have you been superior court clerk? A. I was elected in April, 1868.

Q. Qualified in August? A. I think I was qualified in July.

Q. And have been continuously the superior court clerk up to this time? A. Yes, sir.

Q. Please state what true bills have been found in your county against men accused of committing crime while disguised? A. There have been true bills found against three parties.

Q. Who were they? A. They were Allen Paisley, Richard Thompson and an Albright—I have forgotten his given name.

Q. Were they white or colored people? A. They were colored people.

Q. That is a case that has heretofore been spoken of for the kuluxing of Mr. Coble, a colored man? A. Yes, sir, those were the parties.

Q. No other cases that you know of? A. I recollect no other cases.

Q. Do you recollect any case of conviction other than th
A. No, sir, none.

Q. Do you recollect any case of presentment by a g
jury of persons for being disguised or for being disguised
committing crime? A. There were bills sent to the g
jury——

Q. I mean presentments by the grand jury themselves?
One presentment made.

Q. Who was that for? A. It was a Mr. Gerringer.

Q. What became of that? It still stands as a presentn

Q. No bill drawn? A. No, sir, that presentment was r
at the June term, 1870. At the fall term 1870 we had no

Q. Previous to the issuance of the proclamation decl
that county in insurrection, how many warrants were retu
by magistrates to your office against persons for commi
crime and being disguised or being disguised? A. We
can't say positively how many there were.

Q. About how many? A. I think some eight or ten.

Q. What became of them? A. The first parties that
bound over—there was a bill drawn and sent to the grand
and it was returned not a true bill.

Q. What others? A. The others—there was never any
drawn at all—only one.

Q. Do you know why there was no bill drawn? A.
sir, I cannot say that I know why it was not drawn.
warrants were placed in the hands of the solicitors and I d
know his reason for not drawing the bill.

Q. You are pretty generally acquainted in the count
Alamance, are you not? A. Yes, sir.

Q. State what is the condition of the county as regards
feeling between the two races? A. At this time?

Q. No, sir, I mean at any time previous to the issuanc
the proclamation declaring the county in a state of insur
tion? A. I regarded the feeling as somewhat bitter.

Q. I will ask you now if that extended beyond the col

race to white republicans? A. Yes, sir, I would like to be understood in my answer to that question.

Q. Explain yourself? A. The bitterness existed between the parties. The colored people were almost generally republicans. I do not think the bitterness was any greater against colored republicans than it was against white.

Q. You say you are pretty well acquainted with the people of Alamance county; I will ask you now if you are not very well acquainted with the administration of justice in Alamance? A. Yes, sir, I think I am.

Q. By either court or magistrates? A. I think I am.

Q. I want to ask you now whether or not, in the county of Alamance, during the year 1869 and during that portion of the year 1870 preceding the issuance of the proclamation declaring Alamance county in a state of insurrection, the law could be executed against men who committed crimes while disguised?

Mr. MERRIMON. Mr. Chief Justice, I object to that question, it is purely speculative and calls for the witness' opinion. It is a question which the senate must decide.

The CHIEF JUSTICE. The presiding officer thinks it is not competent.

Q. Do you know whether or not many outrages have been committed in that county and if so whether they were large or small in number—by men in disguise.

Mr. MERRIMON. Speak of your own knowledge.

A. Of my own knowledge I do not—not many.

Q. Don't you know from warrants having been returned to court—that there were a great many.

Mr. Manager SPARROW. I don't know how that will follow.

Mr. MERRIMON. That is an argument.

Mr. BRAGG. He has stated the number of warrants.

The WITNESS. The warrants only had reference to two cases.

Q. I think you stated that there were no indictments found except in the case of Allen Paisley and others—the bastard

Kulklux for whipping Coble? A. I would like to c
rect the statement I just now made. The warrants w
returned in three cases. That of Paisley was one case
there were two others where no bills were found.

Q. Were you in Graham during these raids? A. Yes,
I was at home on both occasions.

Q. State what happened in regard to you and your hou
anything? A. The first raid I think was made in the sp
of 1869 sometime—in the early part of 1869. My brothe
law was at my house. He came there and woke me u
business. We were standing in the yard talking when I h
firing up the street.

Q. What direction? A. It was rather northwest
where I lived, directly north of the courthouse.

Q. Towards Holt's house? A. No, sir, directly nor
court house. It is the road leads to the station on the rai
—Graham station.

Q. Go on and state what took place? A. Doctor Fous
also there with my brother-in law. After hearing that, I
posed to them to go up the street and see what was the m
ing of it. Doctor Foust and myself walked up the street
my brother-in-law remained in the house with my family.

Q. Who is your brother-in-law? A. James A. J.
terson.

Q. What took place then? A. I went up opposite
Harden's store and I found several parties there, and lea
that a party of men had gone through in disguise, vari
estimated at from forty to seventy-five. I did not see the
guised party.

Q. You heard the firing? A. I heard the firing.

Q. Any other time? A. On the night that Outlaw
hung I was aroused by halloaing in the streets. I walke
in my yard after I heard it and I thought it was near a st
little south of the court house, property owned by an unc
mine, John G. Albright. I thought it was near that
from the sound of it—I did not see those parties.

Q. State whether or not, during the times you have mentioned, from the first day of January, 1868, up to and including the time when Wyatt Outlaw was hanged, you don't know that there existed in the county of Alamance on the part of the republicans, white and black, a great terror—a great fear that they would be outraged by the Kuklux?

Mr. MERRIMON. I object to that.

Q. I mean from facts that came to your knowledge as a clerk of the court, and from communication generally with the county.

Mr. BADGER. Mr. Chief Justice, if you will allow me I would like to state my reasons for asking the question.

The CHIEF JUSTICE. The presiding officer will hear you.

Mr. BADGER. I don't know, Mr. Chief Justice, that this matter has come before this court, nor am I familliar with the rules of evidence. Hence I have been very reticent on making remarks on points of evidence of that kind; but it seems to me that an existence of a state of terror among the republicans in the county of Alamance or in any locality can only be proved in two ways; either by the expensive process of introducing every colored man and republican in the county to prove his individual feeling with regard to the matter, or to select prominent men in the county, to whom this class of people would come for the purpose of consulting them, and give their opinion as the result of the statements of these various people. I don't suppose that what I offer would be evidence in an ordinary court of justice where a man was or trial. But in an inquisitorial examination such as this has been claimed to be, where the senators are desirous of being informed of the condition of the county and where the senate is at the same time the court and jury, I do think that this species of evidence ought to be admitted. We propose in this view to ask this witness, and we propose to ask several others who are leading men, to whom the people upon whom outrages were committed would come to consult,

whether he does not know, from what they have said to li
that there was such a state of terror existing. I know i
hearsay of a certain kind and that it cannot have the s
weight which would be given to direct testimony by this w
but still it would have some weight and is some evidence
is a declaration of the state of mind of the people that ex
in that county—not declarations made to the clerk of the s
rior court in order to be detailed here, but of men coming
him to consult as to what they should do for protection by re
of these kuklux outrages in the county. I don't know
else we can get at it unless by the other tedious and expe
mode which I have named.

The CHIEF JUSTICE. The presiding officer will hea
counsel on the other side.

Mr. MERRIMON. I thought, Mr. Chief Justice, that
question had been determined and I see no use in havi
determination if the court are again to act upon it from
to time. It has appeared by the evidence of half a d
witnesses that the two political parties—the domocratic
the republican—in Alamance county were about eq
divided; and the proposition solemnly made here is t
troduce a republican, an active partizan, and this has be
part of their electioneering policy—to swear that in
opinion his party was scared to death, and then on the o
hand we are to be permitted to go on and introduce an a
democrat to swear that his party was scared to death for
the negroes would steal all the democrats had and burn t
barns and houses! That is the way this solemn investiga
is to go on according to the gentleman's proposition. T
partisans are to be paraded here before the court and exp
their opinions as to the fears of the different parties. It
appear to me that the proposition trifles with the solem
of the occasion. In reflecting over the books that I h
read on the subject of evidence I do not remember a
where such evidence was ever introduced or offered to a co
This witness is to be asked his opinion as to the stat

terror existing on the part of a particular party in his county, and that opinion is to be made up by the hearsay of Tom, Dick and Harry—suggested sometimes for one cause and sometimes for another. This evidence, I claim, is especially incompetent in this view. It is well known that one party in this country, since the reconstruction policy of congress was put in operation, has sought to make political capital by introducing the impression abroad, and especially upon the minds of congress, that it was proposed here to subvert that party by force, and to oppress the black people. We have been investigating this matter for the last month, and of all the witnesses (and I believe they have introduced over one hundred of them) who have been sworn, not half a dozen have testified that they were afraid either in respect to their right to vote or anything else; but the great difficulty in all cases where these outrages have been perpetrated has been to ascertain who the offenders were, and make the proof. The evidence shows furthermore, that no active effort was made in their behalf. I say that there is no rule of law that warrants hearsay evidence of this sort, and I challenge the production of a single authority that supports it.

The CHIEF JUSTICE. You stated that this question had been decided in the course of this trial?

Mr. MERRIMON. Yes, sir, I have to call your attention to the testimony of Mr. White, the witness who lived at Alamance. This very question was in substance put to him, and the chief justice decided that it was incompetent, on the ground that it was hearsay. And so also in the testimony of Mr. Bulla. The respondent's counsel went even farther in their inquiry of him on the ground that he was the solicitor, and that it was his peculiar business, because of his official character, to inquire into these things. The question was propounded to him, and the chief justice ruled that it was incompetent.

The CHIEF JUSTICE. The particular question now is whether this witness can be asked if, from general information, he is satisfied that there was a condition of terror among the republicans of that county, colored and white. It does not

strike me that the precise question has ever been pres
fore, and the experience of the presiding officer as a jud
not enable him to say that any question of the kind h
been presented. But upon an anology in regard to
character the presiding officer thinks it admissible. Y
to prove the character of a man by general reputation.
Because that is the only way to do it, and so the exis
this state of terror, if it did exist, can only be proved by
reputation. The presiding officer, therefore, decides t
witness may be asked it from general reputation the
things suggested existed in that county.

Mr. MERRIMON. We beg to ask for a decision
question by the senate.

Mr. BOYDEN. Before the vote is taken, I wish
tion that this testimony has been received from two
witnesses. Certainly both of the Messrs. Hardins tes
it as the record will show.

A sufficient number seconding the demand for a deci
the senate it was ordered.

The CLERK, proceeded to call the roll on the admi
the question.

The name of senator Gilmer was called:

Senator GILMER. Mr. Chief Justice. As Mr. Whit
testimony was allowed to speak of this matter. I vote

The CLERK continued the call of the roll of sena
the admission of the question propounded by Mr. Badg
was decided in the negative by the following vote:

Those who voted in the affirmative are:

Messrs. Bellamy, Brogden, Edwards, Eppes, Flythe,
Hyman, Jones, King, Ledbetter, Lehman, McClammy,
Olds, Robbins, of Rowan—15.

Those who voted in the negative are:

Messrs. Adams, Albright, Brown, Cook, Council,
Crowell, Dargan, Flemming, Graham, of Alamance, I.
Linney, Love, Mauney, Merrimon, Murphy, Robbins,

vidson, Skinner, Speed, Troy, Waddell, Warren, Whiteside, Worth—24.

By Mr. BADGER, [resuming.]

Q. State whether or not you came to see the governor in Raleigh before the inauguration of the military movement? A. I was frequently in the city. I do not know whether I ever called on him in regard to that business or not.

Q. You do not know whether you called on him with regard to that particular purpose? A. No, sir.

Q. Did you call on him at all? A. Not with regard to troops or militia being sent to the county. I never knew anything about the militia coming to my county until they arrived there except the militia that came there in 1869.

Q. State whether or not, in any conversation with the governor, you gave him an account of the condition of the county? A. Yes, sir.

Q. State what you said to him? A. Well, I stated to him some of the outrages that had been committed in the county—parties reporting themselves to me.

Q. State all that you told him as far as you recollect in regard to Alamance county and its condition? A. All I recollect I can tell.

Q. All you recollect is what I call for? A. A good deal passed between us that I would not pretend to recollect. I would not say that I recollect it

The CHIEF JUSTICE. Go on and state.

A. We had frequent conversations about the state of Alamance county.

Q. What did you represent to him to be the condition of Alamance county? A. I represented the condition there to be terrible in some parts.

Q. State further what you said to him. State the particulars if you can? I urged upon him the importance of something being done to produce quiet and order there if possible.

Q. State whether or not you informed the governor that

the civil law was inoperative, and could not be put in there against this organization? A. No, sir, I don't t ever informed him that.

Q. You did not state that to him? A. I think not.

Q. With regard to these organizations state whet not you did state to the governor that it was impossi punish men who committted crime there in disguise.

Mr. BRAGG. He is your witness.

Mr. BADGEQ. I know that, but he is an intelligent and that is the only way I can call his attention to it.

A. I don't think I made such a statement.

Q. What advice did you give to the governor afte had told him the condition of the county? A. The advice, I think, except the conversation in regard to the dition of the county was in a written instrument that I si with other parties.

Q. You signed that letter which has been introduc evidence signed by yourself, Mr. Hardin and Mr. Badl A. Yes, sir.

Q. That was a correct statement of the condition o county and its needs? A. I so regarded it. I have forg the exact contents of the letter, but I thought it was co at the time I signed it.

Q. You recollect at the time it was a correct stateme the condition of the county and its needs and requireme A. Yes, sir.

*Cross-Examination.*

By Mr. Graham:

Q. Have the courts of justice been regularly held in county all the time? A. Yes, sir.

Q. You were the clerk and judge of probate. Your o and the regular courts have always been open? A. Yes, s

Q. Did the county commissioners meet at regular tim A. Yes, sir, I think so.

Q. The authorities have been generally republican b

they not—yourself and the majority of the county commissioners? A. Yes, sir.

Q. How was it with the magistrates of the county? A. I think they were nearly equally divided, though I don't know which party had the predominance.

Q. Were there any instances of persons applying to magistrates for warrants to your knowledge, and failing to get them if they made the proper affidavits? A. Not that I know of.

Q. And not an instance of resistance to the law? A. None that I know of.

Q. No resistance to any process to be executed in the hands of an officer? A. No, sir.

Q. In regard to these proceedings against persons who committed offences in disguise, was more than one bill sent in a case of that kind? A. Yes, sir, there were two bills sent.

Q. Joe. Harvey's case was one of them? A. Yes, sir.

Q. What was the other? A. Those parties who were convicted, and are now in the penitentiary.

Q. Besides Paisley and company there was no other case except Joe. Harvey's? A. No other that I recollect.

Q. And in Joe. Harvey's case the bill was ignored? A. Returned not a true bill.

Q. That was the June term was it not? A. I think it was at the fall term 1869.

Q. Who was foreman of the grand jury? A. George Patterson.

Q. Did you know that at that time there were upon the grand jury a good many republicans? A. Well, sir, I have forgotten the political character of the jurors. I could tell by my records.

Q. Do you know the fact that Harvey admits since that the men he charged were not guilty? A. I do not.

Q. You did not hear his evidence in this proceeding? A. No, sir.

Q. Besides these two cases no bills have ever been sent to your knowledge? A. None to my knowledge.

Q. One was the case of Paisley in which there was a bill, and the other Harvey's case where it was found not a bill? A. Yes, sir.

Q. You say that when warrants binding men over fo fences like this were brought out, they were delivered o the solicitor? A. Yes, sir.

Q. What proceedings the solicitor took upon them y not know except as bills was brought to you? A. That The warrants were handed over to the solicitor, and th nesses marked upon them as the maistrate returned them.

Q. Why he did not draw the bills you do not know? do not.

Q. You state that you were one of those who signed a let the governor asking him to send a military force there? signed the letter with Major Badham. My recollection s me that I did not sign a letter to ask for military forces. recollection is that I signed a letter giving an account of rages that had been committed, and asking that the mili Alamance be organized, and recommending Mr. Ray for Co of that militia.

Q. You signed that, and sent it to the Governor? A. sir.

Q. Didn't you keep that fact a secret and say in Gra that you had not signed such a letter—did you deny it? never did, and never admitted it.

Q. You say you were not questioned about it and did deny it? A. I was never asked directly if I signed the le I never denied it, neither did I admit it.

Q. It was not known that you had signed it, was it? don't know whether it was or not.

Q. You say that your recommendation to the governor to organize a militia force in Alamance for the purpose? That was my understanding of the letter.

Q. You had no purpose of having Kirk brought there? No, sir.

Q. Did you not, after Kirk's troops came there, or about

time they came, express your strong disapproval of sending such a force there? A. Yes, sir, I did on the day they commenced arresting there in the county.

Q. The day that the arrests commenced, you say you did expressed your prompt disapproval? A. I so telegraphed to the governor. I telegraphed asking bail to be ——

Q. Speak louder. I do not hear you? A. In answer to this question I expressed strong disapproval of the militia being sent there after they came arresting. That was the first day that arrests were made in the county.

Q. And when the arrests were made the parties asked for bail—do you know whether the governor refused them bail? A. I sent a dispatch to the governor that they be allowed to give bail. I never saw an answer to that dispatch, it came and fell into the hands of some one at Company Shops they told me ——

Mr. BOYDEN. Never mind what they told you.

Q. [By Mr. Badger.] Do you know whether the governor received the dispatch? A. No, sir.

By Mr. GRAHAM:

Q. You got no answer allowing the bail? A. No, sir.

Q. You sent a despatch requesting that parties might be allowed to give bail addressing it to the governor, and no answer came to you? A. None to me.

Q. You have spoken of the feeling between these parties as bitter. You say it was not more so against the colored people than it was against the white men of the same party? A. I thought not.

Q. Did you participate yourself pretty strongly in that excitement? A. Yes, sir, I was an ardent and zealous republican.

Q. Did you make a speech on the 4th July, 1868 to a large number of colored people? A. I made no speech on that occasion. I read the declaration of independence. I think that was as far as I went.

Q. Was that a meeting of the League? A. I suppose they were League members.

Q. Are you a member of the League? A. Not a mem
I was in a League meeting once in my life.

Q. The occasion on which this speech was made—you
at the time you read this declaration of independence it
to an assemblage of League members? A. I suppose it w
I thought so at the time.

Q. Were you present at another League meeting spo
of by William R. Albright when there was a consultat
about burning the property of people about there? A. I d
know what he refers to.

Q. It was shortly after the first raid into Graham?

Mr. McCORKLE. Name the time and place.

Mr. GRAHAM. I am endeavoring to do that.

Q. Shortly after the first raid into Graham, I ask whet
there was not a League meeting? A. I can tell you the o
League meeting I ever attended. It was at the request of C
law, the man who was hung afterwards. At that meetin
discussion arose.

Q. A discussion arose on the part of whom? A. On
part of some colored men.

Q. Who were they? A. Really I have forgotten who w
there. I think Aleck Ruffin was the principal one.

Q. Allen Paisley? A. Allen Paisley was there.

Q. I ask you whether Aleck Ruffin, Allen Paisley a
others did not advocate the policy of attempting to burn
their adversaries? A. It was spoken of by Aleck Ruffin.
dont know that any of the rest of the parties advocated a
thing of the sort.

Q. The matter was discussed as to whether they would
resort to that policy. I ask you whether you did not say,
the presence of Jacob A. Long, that if any of the Kuklux p
tered you, you would burn them out and their sympathizers.

Mr. McCORKLE. Name the time and place, if you plea

Q. In the town of Graham, I suppose?

Mr. BADGER. It is a collateral matter, Mr. Chief Justi
and the gentleman must state the time and place.

The CHIEF JUSTICE. The presiding officer thinks it is a competent question.

A. Perhaps I stated it to Mr. Long—I don't remember; but I made the remark that if I was outraged as some men had been outraged there, I should be tempted to retaliate upon them.

Mr. BADGER. I don't hear you.

The WITNESS. I don't know that I made the remark to Mr. Long that the governor [Mr. Graham] asked me about, but I have made the remark to parties there—different parties perhaps—that if I was outraged as some men had been outraged in that county I should feel disposed to retaliate.

Q. Did you say that you would burn them out? A. I made that remark to another gentleman on one occasion. I never made that remark in the presence of Mr. Long that I recollect.

Q. You made the remark that if you were outraged by those people you would burn them out? A. Yes, sir, and took it back on the spot. I regarded it as an imprudent remark.

Q. You say you retracted it at once? A. Right at once.

Q. Who was the gentleman? A. William M. Rogers.

Q. Did you hear Henry Holt—(there seems to have been two colored men of that name)—the one who was living in the town of Graham, and perhaps he still lives there—speak of his having shot at the Kuklux at the time they came into Graham on that first raid? A. I cannot be positive that I heard him speak of it. I heard it spoken of though.

Mr. BOYDEN. Never mind what you have heard spoken of.

Q. He has been examined here as a witness, and he stated that they fired into his house. I ask you whether you have not heard him say that he fired at them? A. I don't think I ever heard him speak of it.

Q. Do you know whether at that time, and before, William R. Albright had not armed a colored police? A. Yes, sir, I think there was a police of four colored men appointed in the town of Graham, and one white—that is my recollection.

Q. The colored men were Aleck Ruffin, and who else? I don't remember.

Q. Was Henry Holt one of them? A. I don't remem I don't even remember whether Alek Ruffin was one or no don't remember the names of any but Mr. Underwood, white man.

Q. It has been proved here that Alek Ruffin was one? I don't remember the names.

Q. Do you know whether or not the League were in habit of punishing or threatening any of their number voted on the other ticket? A. I do not.

Q. Were you at the meeting on the 8th of January, 1 when the people met to express their opinions with regar the passage of the military bill and to disapprove the outr in the county? A. Yes, sir, I was there.

Q. It was not a merely party meeting was it? A. T were a good many republicans there on that occasion. It called by the citizens of the county. It was not called by party. I understood the advertisement was for a meetin the citizens of the county.

Q. So I understood it to be—a meeting of the citizens of county without distinction of party? A. Yes sir. That is way the call was as I understood.

Q. In that you passed the resolutions that have l read here, disapproving of the passage of the military bill, also disapproving of the outrages? A. There were resolut passed at the meeting of that character.

Q. It was a meeting held in good faith on the part of t who appointed it, as far as you know? A. As far as I kn

Q. This political feeling you speak of was pretty well re rocated on the part of the republicans, was it not—abou strong a feeling one way as with the other? A. Yes, sir, bitterness, I thought, was manifest in both parties.

Q. Did the citizens have the usual intercourse as neighb A. The feeling was more extensive between some and oth It became personal between them.

Q. But that was not the general state of society in the county was it? A. No, I think not the general state.

Q. People had their usual dealings? A. Yes, sir.

Q. The colored people, were they exclusively in the employ of republicans, or in the employ also of the opposite party? A. They were in the employment of both.

Q. The usual business relations went on without interruption? A. Yes, sir.

*Re-Direct Examination.*

By Mr. BADGER:

Q. Who did you say was the foreman of the grand jury when these bills were found? A. I think the foreman of the grand jury when the bills were found—well, I cannot recollect positive.

Mr. GRAHAM. I wanted to ask the witness another question with your permission.

Mr. BADGER. Certainly.

*Direct-Examination* [resumed.]

By Mr. GRAHAM:

Q. Do you remember that, in the June term, 1870, James G. Moore was the foreman? A. Yes, sir.

Q. Do you remember whether at the close of the term the solicitor, Mr. Bulla, did not express himself as very much gratified with the manner in which the grand jury had performed their duties? A. Yes, sir, I heard him make the remark.

Q. Did you yourself express special approbation? A. Yes, sir.

Q. Do you know whether the judge did? A. I do not, I never heard him speak of it.

Q. In conversing with the governor about the state of outrages in the county, did you communicate to him the fact that the League were discussing the expediency of burning the property of the other party? A. No, sir, I do not remember of a League meeting in my county since the presidential election with the exception ——

The CHIEF JUSTICE. Answer the question th
Graham put to you.

A. I did not.

Q. You did not communicate that to the governo
No, sir.

Q. But you say that after the first raid at Graham —
I say with that exception there was not a League mee
the county.

Q. You say you did not communicate to the gover
fact that the Leagues were talking about burning the p
of the adverse party? A. No, sir, not that I remembe

*Cross-Examination* [resumed.]

By Mr. BADGER:

Q. Do you know that the Leagues were contemplatin
A. I only know of it in that meeting.

Q. In that meeting you say only one man advocated i
Only one that I remember.

Q. How many were there in the meeting? A. Som
or ten, I think.

Q. What was the vote—what was the final determin
A. The determination was that it should not be done.
object of the meeting was to discountenance any suc
ceeding.

Q. You say Wyatt Outlaw was in the meeting? A
sir.

Q. What part did he take? A. I don't think he t
active part in the meeting. He came to my office in the
ing, and asked me to come around, as they were going t
a meeting.

Mr. GRAHAM. You need not state the conversati
ther than that.

Mr. BADGER. I think the witness has a right to s
It is in connection with the meeting.

The CHIEF JUSTICE. I do not see the particul
portance of going further upon that point. It was ge
conceded that Outlaw was opposed to that course.

Q. You say there were manifestations of bitterness on both sides. A. Yes, sir.

Q. Were there any manifestations of bitterness on the part of the republicans to the extent of committing crimes against democrats? A. None to my knowledge.

Q. You mentioned that James Patterson was the foeman of the grand jury. Which James Patterson was that? A. It was George Patterson, sir.

Q. Not James? A. No, sir.

Q. To which party did George Patterson belong? A. The conservative.

Q. Was he a Kuklux? A. I do not know.

PINCKNEY ROLLINS, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. State your age, occupation and residence? A. Thirty-five years, I reside in Asheville, North-Carolina, at present I was formerly from Madison county.

Q. State whether or not you are acquainted with the general character of George W. Kirk? A. I think I am, sir, since April, 1865.

Q. If you are acquainted with it state what it was? A. Well, as an officer he was brave and dashing; he treated prisoners humanely and kindley and he was gentlemanly and respectful to citizens of that section of the country. I knew him as a citizen. He lived at Asheville after he was mustered out of the service.

Q. State whether or not there was any petition to your knowledge signed by the citizens of Asheville, requesting the general commanding that department to send him back there after he left? A. There was, sir.

Mr. GRAHAM. I object to that evidence.

Q. State whether or not you have searched the record at the war department to find that petition? A. I have.

Q. If so with what effect? A. Well we were unsuccessful

in finding the record. We found a petition from Mar

Mr. GRAHAM. I object to any proof as to that

Q. Do you know of a thorough search being made petition from Asheville? A. I do, sir, I know then petition of that kind.

Mr. BADGER. I propose now to show that a lar ber of leading citizens of Asheville after the end of t petitioned the general commanding the western depart have Colonel George W. Kirk sent there and put in c western North Carolina; we offer that to rebut the te of Colonel Cocke.

Mr. GRAHAM. I object to it. The only way that is of being rebutted is by proving his reputation. This is particulars, for the purpose of endeavoring to show that had character. We have only endeavored to prove wha general reputation and character was, and that is compet proper in such cases. It is now proposed to prove a pa fact, to-wit, that certain persons gave Kirk a good char at least that they made an application for his services, wh was under that kind of duress which compels men man to make application for assistance of persons whom the not choose in ordinary state of society for that purpose know. I have no doubt that the people of Old Bat Washington or Newbern would have been very glad given a good character of Blackbeard, the pirate, at the was committing his depredations down there; if, thereb could have saved their property from destruction. fact would not be competent in an inquiry as to w general character was.

Mr. BADGER. Mr. Chief Justice, we think this e is competent for this reason. The question propounde witness was whether he did not know that a very large n of the leading citizens of the town of Asheville had pe the general commanding that department to have this pa individual sent there and put in charge of that section after the termination of the war. We propose to show

that it was signed by the father of Judge Merrimon and other leading citizens of that county, and they asked that this particular colonel should be sent there in command of the troops. We think the offer is too general to be regarded as specific.

The CHIEF JUSTICE. The presiding officer thinks you can introduce the evidence.

Q. Please state Mr. Rollins? A. I saw the petition, sir. It was signed, I think, by everybody in Asheville, pretty near—every leading citizen.

Q. What was about the substance of the petition? A. It was drawn up and went on to state in the petition that from the general character of Kirk they had learned to fear him; but that since they had become acquainted with him they had learned to love him.

Q. That was in the petition? A. That was in the petition, sir. I saw it.

Q. You say it was signed by all the leading citizens in Asheville? A. Yes, sir.

Q. Addressed to whom? A. To General Stoneman, commanding the department of East Tennessee.

Q. State whether or not Colonel Kirk has not two general characters now? A. Yes, sir, he has two general characters.

Q. State what they are?

Mr. GRAHAM. I don't know how that is competent.

Mr. BADGER. I offer it, Mr. Chief Justice, with this view. Two classes of witnesses are called to prove the general character of Colonel Kirk. We want to show that it is one class who regard him as a miserable scoundrel, and that the other class regard him as a high-toned, gentle, honest, clever and kind-hearted man.

The CHIEF JUSTICE. What is the question?

Mr. BADGER. I ask if Colonel Kirk does not bear two characters in that region?

The CHIEF JUSTICE. You can ask him what character Col. Kirk has.

Mr. BADGER. I have asked that.

The CHIEF JUSTICE. He says that his general c
is good.

Mr. MERRIMON. He has not said that.

Q. What is the general character of Colonel Kirk?
a citizen?

Q. Yes? A. I think it is peaceable and law-abiding

Q. As a soldier and an officer, what is his general ch

Mr. GRAHAM. We do not care about that, I supp

A. He was kind to prisonors. I saw numbers of m
rendered to him and he treated them kindly; and he
much respect for the private property of citizens in
tion of the state as any man that was there.

*Cross-Examination.*

By Mr. MERRIMON:

Q. I ask you, sir, if the general reputation of Kirk
the last two years of the war was not that of a very de
man? A. It was by certain parties.

Q. Was not it by all parties? A. No, sir.

Q. Wasn't he regarded as a terror to the country?
the confederate party he was.

Q. By all parties? A. No, sir. Numbers of men
from our section of the country to him. I suppose if th
feared him they would not have wanted him.

Q. Was your brother a major in his regiment?
was.

Q. Did you have any service in his regiment? A. I

Q. Had you any connection with it? A. No, sir.

Q. Were you with him at any time? A. I was with
I went with the regiment to Asheville.

Q. Do you know that his command was in great p
don't speak of all, but great part—made up of deserter
both armies? A. Well, sir, they were like all other regi
There were a great many men who had been in the Co
ate army, I know that.

Q. Deserters? A. Yes, sir.

Q. Men that had lived out in the woods and moun

A. Yes, sir; and a great many who would not go in at all, and had gone through the lines, and some as good citizens as there are in western North Carolina, too.

Q. Did not you know that, with some exceptions, the men in that army were regarded as desperate men in the country. A. I don't think they were any more than the Confederate troops.

Q. I am not talking about that. Don't you know that they were regarded as desperate, as bad men? A. Some of them were.

Q. A great many of them? A. I don't know as I can state, sir.

Q. I asked you if you don't know that it was Kirk's common reputation there that he killed men and outraged them in various ways? Wasn't that his common reputation? A. That was by the papers of the country.

The CHIEF JUSTICE. That is not the question. You are not to speak of what they said—only of his general reputation.

A. I don't know it to be the case.

Q. You do not know what to be the case? A. I don't know that he did do it.

Q. I didn't ask you that, I asked you for his common reputation? A. It was his reputation for general deportment as a military commanded in that part of the country which circulated through the country.

Q. I asked you if you don't know that he put to death two men after they had surrendered, two miles north of Asheville, Wells and Morgan? A. I do not, sir.

Q. Don't you know it is commonly reported so? A. It was so reported, but I have evidence from men who were present that it was not so.

Q. Don't you know that it was his reputation that he and a fellow named Ray, shot two men when they were on their knees begging for life.

Mr. BOYDEN. That is not evidence of reputation.

A. I have heard of it sir, and ——

The CHIEF JUSTICE. These flying rumors are n
dence.

Mr. BOYDEN. It is attempting to prove particula
by reputation.

Mr. MERRIMON. You have gone into particular
here yourselves.

Mr. BOYDEN. No, sir, I have not.

The CHIEF JUSTICE. I think not. Rumor is n
dence.

Mr. GRAHAM. They went into a particular fac
recommendation for the appointment of Kirk.

Q. I ask you further, now, if you do not know that it
matter of common reputation among all people there that
and his men intended to burn the town of Asheville wh
came? A. By all men?

Q. Generally, and were there not fears of that thing?
you know that measures were taken to prevent it, and th
military had to interpose to prevent it? A. I do not
that they were.

Q. Is not that the reputation? A. I have heard it rep

Q. Don't you know that he was stationed there two
after Stoneman's cavalry passed through? A. Yes, sir.

Q. Don't you know that nearly every house in the tow
pillaged at night by the troops? A. No, sir.

Q. A great portion of them? A. A great many applie
separate guards and I think he had detailed men to guard
houses.

Q. Don't you know that a great many applied to Ki
send his men to their houses to keep them from being pill
and robbed? A. I think he did, sir.

Q. Don't you know that the people were all disarm
A. Yes, sir.

Q. Was it under those circumstances that they made
application, if they made it? A. This application was

when Colonel Kirk was ordered back to Tennessee. He had been there some two or three weeks.

Q. What do you know about this application? A. I have seen the application.

Q. Where did you see it? A. I saw it in the camp at Asheville and I know my brother took it to East Tennessee.

[At this point a discussion arose between counsel as to the admissibility of certain testimony which had been given by the witness and the stenographer was instructed to strike the same from the record.]

STEPHEN W. COLLIS, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. State your age, present occupation and office? A. I am fifty-three years old, my residence is Mitchell county.

Q. Are you a member of the lower branch of the general assembly? A. Yes, sir.

Q. For Mitchell county? A. Yes, sir.

Q. Do you know the general character of Colonel Kirk? A. I have heard it spoken of a great many times.

Q. State what his general character is as a soldier and a man? A. I may say I reckon he has two general characters.

Mr. GRAHAM. I submit that he cannot have but one general character in the legal contemplation.

By the CHIEF JUSTICE:

Q. State what is the result of your opinion from what you have heard as to his general reputation as respects character? A. Among some people he stands very fair.

Q. That is not an answer. Suppose I should meet you on the road and should ask you if you knew his character and you said that you did, then I should ask what his general character was what would you say? A As a citizen I never heard anything alleged against him. I think he is an honest man. I think he bears the name of an honest man generally in that country.

Q. How is he with regard to cruelty? A. I hav
him spoken of frequently as a very kind man, and
prisoners during the war. I am acquainted with a goo
soldiers who were under him when he was commande
2nd North Carolina U. S. troops, and they say he was
kind man to them.

*Cross-Examination.*

By Mr. MERRIMON:

Q. Do you not know that his common reputation
the mountains and in the edge of Tennessee, where y
sionally preach, is that of a desperate character? A.
some people he had that reputation.

Q. Is he not known as an exceedingly savage and
man? A. I think not.

Q. Was not that the reputation he had during the w
he not a terror to the country? A. He was a terror to
many people in the country. A great many people r
him as a friend. It was just owing to the political sen
of the people.

Q. I ask you whether it was not his common reputati
he burned houses? A. I cannot say that it was.

Q. This information that you have got upon which y
your opinion you got from Kirk's men? A. I have l
from Kirk's men, and from a great many other people
country.

Q. Men who were with him? A. Men who were wi

Q. I ask you if the common reputation of Kirk and l
was not that of desperate characters? A. They were r
by a part of the people as desperate.

Q. Didn't they all give him that reputation? A.
not all of them.

Q. A greater portion? A. I suppose a larger porti
was just owing to the political sentiments. I suppose a
portion regard him as desperate.

Q. Was it not the common reputation that he shot m
hung them? A. That was spoken about frequently.

Q. Was not that his common reputation? A. It was among his enemies.

Q. That he burnt houses? A. I don't recollect.

Q. Was it not the common remark that the great part of these men were plunderers and deserters from the confederate and federal armies? A. That was spoken of. Towards the latter part of the war he got up a regiment, and I suppose that there were a great many who were deserters.

Q. Was not a great part of his army composed of the fag ends of both armies? A. I do not know. I know that some men deserted the southern army and joined his regiment.

Q. What political party do you act with? A. I generally vote the republican ticket.

*Re-Direct Examination.*

By Mr. BADGER:

Q. You say that your conclusion is that there are two different opinions of Colonel Kirk? A. Yes, sir.

Q. What class of people, during the war, gave him a bad reputation? A. The confederates.

Q. Rebels, you call them there? A. Yes, sir, rebels we call them. They hated him very much.

Q. He was a thunderbolt of war among them? A. Yes, sir. He was hated by what was called the rebels.

Q. What sort of opinion did the loyal men have of him? A. They regarded him as a friend.

Q. How id he compare with the other side who were up there? A. I think——

The CHIEF JUSTICE. That is hardly admissible.

JOHN W. TICKLE, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. Where do you reside? A. Alamance county?

Q. What is your age? A. Thirty-four.

Q. What is your occupation? A. Farmer.

Q. What part of the county do you live in? A. Seven miles

from Company Shops.

Q. State whether you were a member of the White
hood? A. I was.

Q. What klan did you belong to? A. W. R. Tick

Q. How many members were there of that klan? A
hardly state, but about twenty or twenty-five, I think.

Q. How often did you meet with them? A. Thre
times.

Q. State what was done at that meeting? A. Som
three were initiated. At another one there was a dark
ped.

Q. State all about that? A. That was all there w
it. We started and whipped him.

Q. But there was an order made first, was there n
I do not know that an order was made.

Q. How did you get notice of it? A. There was
named Julius Summers let me know.

Q. What camp did he belong to? A. The same ca

Q. State all you know about it? A. He came and
that they were going to meet that night at Shallow For
ing-house for the purpose of whipping this darkey.

Q. Who was the man you whipped? A. Daniel Jo

Mr. MERRIMON. I ask, Mr. Chief Justice, if we
have this matter of Daniel Jordan over again in detail,
men were on trial for the whipping? We do not de
Jordan was whipped. I insist that this is a needless co
tion of the time of the court.

Mr. Manager SPARROW. It has been already pro
two or three witnesses.

Mr. BADGER. We have not yet proved that th
Jordan was whipped by order of a camp.

The CHIEF JUSTICE. Go on with the examinati

The WITNESS. We went there, and took him o
whipped him. That is all that was done, I believe.

Q. How many were there? A. There was about
think, went.

Q. Who were they? A. Julius Summers, Rankin Lowe, William Lowe, Daniel Whitesell, Rankin Lewie, Milton Huffines, Martin Gerringer and William Gerringer.

Senator EDWARDS. Mr. Chief Justice, I move that this examination be stopped, and upon that I ask the sense of the senate. We have had this matter over and over again, day after day. It is simply consuming the time of the court on a point in reference to which it as well satisfied as it can possibly be.

Senator MOORE. I would like to inquire, Mr. Chief Justice, whether the senate proposes to stop any further examination on the part of the respondent?

Senator EDWARDS. That is not my purpose, but I do objeet to this particular transaction being gone over again when it has been testified to nearly a hundred times.

Senator MOORE. My understanding of the matter is this: the purpose of the respondent's counsel is to fully prove the fact showing that this whipping was determined upon by this secret organization. I desire, as a member of this court, that the counsel for the respondent may be able to show the fact that the whipping was done by order of the organization as well as executed by its members, for it is upon the full facts of the case that I have to form my judgment.

Mr. MERRIMON. It has been proved two or three times that the whipping was done by the Kuklux. We have never denied that.

Mr. BRAGG. Hughes has already testified to that fact.

Mr. BADGER. I do not recollect that we have introduced any witness who was present at the time the actual whipping took place.

The WITNESS. Whitesell who was examined the other day was there and testified to it.

Senator EDWARDS. I withdraw my motion for the present.

By Mr. BADGER [resuming]:

Q. Was Jerry Albright there? A. No, sir.

Q. What sort of whipping did you give him, and und circumstances? A. They gave him a good whipping, it—a pretty severe whipping.

Q. Where did you find him? A. They found hi house in bed.

Q. Was the door locked or open? A. I don't know it was locked or not.

Q. Was it closed? A. It was shut.

Q. How did you get in the house? A. Bursted o door.

Q. Were you disguised? A. Pretty much so I beli

Q. What time in the night was it? A. I could not t but about ten o'clock I think.

Q. What month? A. I am not able to tell what mo it was in the fall of the year.

Q. What year was it? A. 1869.

Q. State what happened when you got into the hous I didn't go in myself.

Q. Did you ever hear others say what happened? A not know that I did.

Q. You say they gave him a pretty good whippin Yes, sir.

Q. Do you know of any other outrages committed county? A. No, sir.

Q. Have you heard any members of the organizatio A. No, sir.

Q. Were all the members present that night citizens mance? A. I think not.

Q. Did any of the members state that night that th ping was done by order of the camp? A. No, sir.

Q. Where were these other men from who were n Alamance? A. They were from Guilford.

Q. Who was the chief of your camp? A. William R.

*Cross-Examination waived.*

MILTON HUFFINES, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. You are a member of the Kuklux klan? A. Yes, sir.

Q. Do you know how many klans there were in the county of Alamance? A. No, sir, I do not.

Q. How many did you know of? A. I never knew of any only the one I belonged to.

Q. Which was that? A. That was the one called the White Brotherhood.

Q. What was the number of the camp you belonged to? A. I cannot tell you that—I never heard.

Q. Do you know of any other camp of the White Brotherhood beside the one you belonged to? A. No, sir, I do not.

Q. Did you attend a general meeting of the camps? A. No, sir.

Q. Who introduced you into the klan? A. Peter Hughes.

Q. I ask if John A. Trollinger did not administer the oath to you? A. No, sir.

Q. Did Peter Hughes administer the oath to you? A. Yes, sir.

Q. Which camp did he belong to? A. The same camp.

Q. How many members belonged to it? A. I do not know that I can tell, but there was some twenty, I reckon—I don't know exactly how many.

Q. How many belonged to the order in the county? A. I do not know that.

Q. Do you know of any outrages or whipping that were committed in that camp? A. Only one.

Q. The one spoken of just now by the previous witness? A. Yes, sir.

Q. Did you hold any office in the camp? A. No, sir.

Q. How many meetings did you attend? A. I don't recollect—some two or three.

Q. State if you know whether there was a feeling of terror among the color people in that county?

Mr. GRAHAM. Speak of your own knowledge.

A. Not to my knowledge.

*Cross-Examination waived.*

Mr. MERRIMON. I submit, Mr. Chief Justice, v this witness ought to be allowed to prove his atte He has testified to nothing.

The CHIEF JUSTICE. That is a matter which t siding officer has nothing to do with.

Mr. MERRIMON. I think it is a matter which th has something to do with.

The CHIEF JUSTICE. The presiding officer does how the question can arise now.

Mr. MERRIMON. The Chief Justice is right, it d arise yet.

WILSON S. CAFFEY, *a witness called on behalf respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. Are you a member of the White Brotherhoo Yes, sir.

Q. State what you know in reference to the organi A. I know but very little about it. I did not attend b or three meetings and there was only two months betw first meeting and the last.

Q. When were they? A. I think it was in Dec 1869.

Q. The first one? A. Yes, sir.

Q. Who initiated you? A. I cannot positively say was. They were all disguised.

Q. Did you not hear afterwards? A. I heard it man by the name of Jay Simpson.

Q. You heard that from members of the order? A. them to be members. I cannot say.

Q. Where was it? A. It was iu the edge of Rock county.

Q. Do you know anything about the Kuklux in Alamance? A. I do not, only by public report.

Q. Did you ever attend a meeting in Alamance? A. I never did.

Q. Did any Alamance man ever attend a meeting over where you were? A. There were two to my knowledge.

Q. Who were they? A. B. R. Isley and F. Isley.

Q. They attended a meeting at your camp? Y. Yes, sir.

Q. Were you a chief? A. I was not.

Q. Who was the chief?

Mr. GRAHAM. We object to proof of the existence of the order in Rockingham county.

Senator WARREN. I would enquire from the counsel for the respondent what facts they propose to prove by the witness. It seems to me that there must be an end to this sort of examination sometime.

Mr. BADGER. I will state to the senate that I was not familiar with the facts which were to be proven by the last two or three witnesses. The unexpected absence of my associate who was to examine them, and who is familiar with the facts they were to prove has embarrassed me in my examination.

Q. State whether at the instigation of these men from Alamance your camp went with them to commit outrages or went disguised into Alamance? A. Not to my knowledge.

Q. Do you know anything in regard to the camps in Alamance? A. I do not, of my own personal knowledge.

Q. Or by information conveyed to you by members of the camps of Alamance?

By the CHIEF JUSTICE:

Q. Do you know what you were summoned here to prove? A. I do not know. I was summoned here by the respondent.

Q. You don't know? A. No, sir, I have no knowledge of any of the acts of the organization in Alamance. I was told by one of those gentlemen that went with me to this camp in Rockingham that Mr. J. A. Long was said to be the chief in Alamance county.

Q. That is all you know about it? A. Yes, sir.

DAVID CUMMINGS, *a witness called on behalf respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. Where do you reside. A. In Guilford county.

Q. Are you a member of the White Brotherhood? A sir.

Q. Where were you initiated? A. I was initiated i ford.

Q. By whom?

Mr. GRAHAM. We object to any further interroga this witness.

The CHIEF JUSTICE. The presiding officer does that it makes any difference who the witness was initiat What were you summoned here to prove?

The WITNESS. I do not know.

Q. I ask you whether John T. Trollinger did not i you? A. Yes, sir.

Q. Where does he live? A. In Alamance—or he d there.

Q, Was he a citizen of Alamance at that time? A. Y

Q. Did he tell you whether he was chief of a camp A. He told me, I think, that he was.

Q. Did he state what number of Kuklux there were i mance? A. No, sir, he did not.

Q. Did he state to you the number of men in that A. No, sir, he did not.

Q. Do you know of your own personal knowledge an in reference to the number of Kuklux in Alamance c A. No, sir, I do not,

Q. Do you know anything in regard to outrages com in Alamance by Kuklux? A. No, sir.

Q. Do you know any at all? A. No, sir, not at all.

Q. Do you know from the statements made by any

Kuklux in Alamance in regard to outrsges committed there? A. No, sir, I never did.

Q. State whether George Albright said that Daniel Anthony's camp whipped Corliss at Company Shops? A. I think he told me he thought it did.

Q. Did he not tell you that they did it? A. I don't think he did.

Q. Were you in any raid in Alamance? A. I never was.

Q. Do you know anything about the whipping of Carter Smith's son? A. He was whipped in Guilford.

Q. Were any Alamance men there when he was whipped? A. Not as I know of.

Q. Did you not hear from men who were present? A. No, sir.

Q. Wasn't Jerry Albright there? A. Not to my knowledge.

Q. Did you not hear from some one of the Brotherhood that he was there? A. No, sir.

Q. Wasn't Jerry Coble there? A. I don't know the man.

Q. Jacob May? A. He is a Guilford man.

Q. Henry Boon? A. He is a Guilford man.

Q. Isaac Weedon? A. He is a Guilford man.

*Cross-Examination waived.*

Senator ROBBINS, of Davidson. Mr. Chief Justice, it seems te me that in a case of this sort, the only question to be asked is whether the witness knows anything about the operations of the organization in Alamance county of his own knowledge or anything of outrages committed by Alamance men. This extended examination it seems to me is abusing the patience ot this court.

Mr. BADGER. I desire to say Mr. Chief Justice, that I certainly had no desire or intention to abuse the patience of this court in this examination. Being compelled as I have been to examine some of the witnesses this morning without previous opportunity to know what they could testify to, my duties have been in the nature of a fishing commission. I regret that it is so

but certainly I had no desire to needlessly occupy the ti
the court.

The CHIEF JUSTICE. The presiding officer will
that in the matter of examining witnesses a great deal is l
the discretion of the respective counsel. He cannot pro
interfere unless the examination is pursued to an extreme
is usual to allow each counsel to take their own course
their own responsibility lest by interference there might l
justice done.

Senator ROBBINS, of Davidson. I do not wish, Mr. C
Justice, my remarks to be misunderstood. The court h
cided that they would hear nothing of outrages committe
side of Alamance or Caswell unless they were committe
Alamance men. The respondent has introduced a witnes
from Guilford and has asked him various questions wi
asking the preliminary question whether he knows anythi
his own knowledge as to the organization in Alamance
Caswell or the outrages committed by the men in that c
ization.

Senator EDWARDS. At the instance of several Se
who concur with me in the opinion, I have a motion to s
to the senate. I move that the last three witnesses who
been examined, be not allowed to prove their attendanc
tax the expense thereof to the state.

Mr. SMITH. I submit, Mr. Chief Justice, to the
that the materiality of the testimony of more than two
nesses cannot be made to appear until the trial is over
for instance, testimony is sometimes assailed and it
becomes necessary to sustain it. The rule providing tha
two witnesses shall be examined refers to proof of unc
verted facts.

Senator EDWARDS. I think, Mr. Chief Justice, it i
fectly apparent that neither of the three witnesses la
amined have deposed to any new facts and more than tha
have not deposed to anythfng that is admissible under the
of the court.

The CHIEF JUSTICE. It has not been usual in the practice of the courts to determine the question of the taxation of costs until the case is concluded.

Senator EDWARDS. It has never been usual in the practice in courts for a party to abuse the patience of the court in the way it has been done here.

The CHIEF JUSTICE. Oh, yes, it has. I have known it to be done on circuits, time and time again. But you have a right to make your motion.

Senator EDWARDS. I move that the last three witnesses be not allowed to tax their attendance. I have reduced my motion to writing.

The CHIEF JUSTICE. The question will be upon motion——

Senator EDWARDS. I will withdraw the motion for the present.

Mr. BADGER. I have stated before, Mr. Chief Justice, the difficulties under which I have labored in the examination of these witnesses and I do not think it is kind for members of the court, occupying the positions they do, to make these little flings at the counsel. I certainly have no desire to prolong this investigation beyond the time absolutely necessary.

Senator GILMER. I hope, Mr. Chief Justice, that the trial will proceed.

JOSEPH MEBANE, (colored) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. State your residence and your occupation? A. I reside in Johnson county and my occupation is teaching school.

Q. Where did you live in the year 1870? A. In Caswell county.

Q. What part of the year? A. The first of the year 1870; from January down to May.

Q. What was your occupation there? A. Teaching school.

Q. What is your age? A. Nineteen.

Q. What kind of a school did you teach? A. It was a sub-

scription school. The government aided me,—paid me dollars ——

Q. State whether or not you have been interfered wit men in disguised and if so when? A. I was teaching s in Caswell county. I boarded at Mr. Allen's. I taught s about fifty yards from his house on the main big road. February, the last clause of it, if I mistake not, was the fi my knowing of these disguised men. They passed b Allen's house.

Q. How many were there? A. They looked to be twenty-five or thirty about that—that is my estimation ab

Q. What did they do? A. They did not do anything passed there and they halloaed and went on.

Q. Halloaed how? A. They holloaed in a peculiar w can't change my voice, like they changed theirs. I c recollect.

Q. How were they disguised? A. I was not very cl them, but they had disguises on—white, it seemed to me.

Q. What else? A. That is the last I saw of them that

Q. What time was that—the last of February? A. Th of February, if I mistake not. In May I saw them ag second time when they attacked Mr. Allen.

Q. Who was Mr. Allen—a colored man? A. A c man.

Q. State the circumstances—how many were present I was aroused something a little after 12 o'clock by the ing of the dog.

Q. Was it in the night or day? A. In the night. I something about twelve o'clock I heard the dog barking seemed as if they made a rush against the door, and batt against it. They commenced halloaing towards the door Allen did not open the door as they requested. They "Open the door, we don't want to hurt you," but he didn't the door, and they commenced battering the door again w pole sixteen feet long, and a very large rock which they t

against the door and battered a hole through the door, and they began shooting through it.

Q. How many shots? A. I cannot recollect how many shots, but they were shooting at the door, and I suppose one ball entered through the door.

Q. Through the door? A. Yes, sir.

Q. What else took place? A. Then they commanded Mr. Allen to open the door, that they would not hurt him, but open the door he must. After that he got up and opened the door, and they asked him why he did not open the door when they told him. He said that his wife was not willing he should open the door, and he delayed it. He was then standing in the door and they said, "Come out here;" he said, "You said you didn't want to hurt me—what do you "want with me?" They said, "Come out here to us;" he said "I shall not do it;" and he turned right around and stepped back in the house, and got a sabre there, expecting that they would rush upon him, and he returned with the sabre, and one of these disguised men was standing in the door, and he thurst that sword at him, and after that he closed the door. Then they said, "We will set the house on fire." It was a double house with a kitchen, which was connected with the big house by a weather boarding. They went to the south corner and set it on fire. He closed the door after he thurst the sabre at this disguised man, and they had gone to the south end of the house to set it on fire. They were striking matches. Then his wife went I suppose in the kitchen from the big house and begged them not to set it on fire.

Q. You could hear her? A. Yes, sir. Then Mr. Allen he opened the back door and ran off, and as they discovered him they halloaed, "Shoot at him," and they ran after him, I suppose about two hundred and fifty yards, and shot at him.

Q. How many times did they shoot? A. I think I heard the report of one or two guns—I heard one any how.

Q. Did they catch him? A. No, sir, they didn't succeed in

catching him. After they returned I heard them say, "intend to have revenge."

Q. That was after they got back? A. Yes, sir.

Q. Did they do anything more? A. They only disc with Allen's wife after they came back. They asked h where was that teacher—that they wanted him. She r that he had gone home with some of the children from

Q. By the teacher they meant you? A. Yes, sir, I teacher there at the time. I made myself quite still. I make any noise at. [Laughter.] One of the men said not so, that he saw me in the yard that evening just a Then there was a young man who boarded there wit Allen, and they asked him where I was, and he repeat same thing, that I was not there, that I had gone hom some children.

Q. You laid very low? A. Yes, sir, I kept very qui

Q. What did they do after that? A. After that I s they left. They went off a piece, and she could hear the ing, "Let us go back"——

Mr. GRAHAM. You need not state what she heard.

The WITNESS. At last after they went of she says——

Q. Never mind what she said—you need not tell an but what you heard yourself? A. Well, they went off.

Q. [By the Chief Justice.] Did they come back? A sir. She told me to go, that they were coming back, jerked on my pants, and I ran off and laid out that nigh

Q. How much longer did you remain in the county o well? A. That was on Monday night, the 9th Ma taught school that week, then on Friday night after 12 o or 1 o'clock, I and four other men were there. We stay every night after that first time they visited us, and w the woods. We were afraid to stay in the house. I t my school in the day, and would stay out in the woo night. On the Friday night four other men came to st with me—to keep company with Allen's wife and m We didn't stay in the house, but we went off in the w

and stayed there till about 1 o'clock, when some of the men suggested, "They will not be here, let us go to the house," and we went to the house, and built up a little fire. But my feelings would not allow me to stay in the house, for I believed that they would be there, and I told them so. Well, something after 1 o'clock, I was standing by the door, and I looked up the road about 300 yards and I saw a body—something white moving. I stepped into the house and said, "Men, "the Kuklux are coming." They went to the door and looked, and they said, "No, it was the moon shining against "the trees;" and they went back and sat down. Presently I saw them coming on the road on horseback, and I said, "Men, "let us get out, here they are—the Kuklux," and myself and three other men rushed out over the big road, but Robin Jacobs turned round the corner of the house. I said, "Uncle Jacob, come along." But I never heard him say anything as he went on. We got out of the way and Robid Jacobs went the contrary way altogether

Q. A part of you went one way and Robin Jacobs went the other? A. Yes, sir.

Q. When did you see him next? A. The next morning.

Q. Where? A. I saw him lying about 150 yards from Samuel Allen's house, dead.

Q. How had he been killed? A. I saw him the next morning with a very large hole in his shoulder.

Q. What sort of a hole? A. It looked very much as if he had been shot. I heard the report of a gun.

Q. He was dead? A. Yes, sir, he was a dead man.

Q. Did you see how these men were disguised? A. Yes, sir, in white—something like gowns, and they had horns on them.

Q. Did you see them the last night you spoke of? A. Yes, sir, I saw them every night.

Q. How many do you think there were that night? A. I can only suggest that I saw them coming at a distance, and I didn't have time to look to see how many.

Q. How many do you think there were? A. The peared to me to be 200 or 300. I believe there were.

Q. How long did you remain there? A. The next m I left the county—Saturday morning.

Q. What caused you to leave the county? A. I was to stay there any longer.

Q. Do you know anything else of Kuklux outrages i county? A. Not of my own knowledge—nothing mor hearsay.

Q. Did you see anybody who had been thrashed or whi A. No, sir.

Q. You didn't? A. No, sir.

Q. Did you see anybody else who had been killed No, sir.

Q. They had on white gowns? A. Yes, sir.

Q. And white caps over their heads with horns? A. sir.

Q. What time in the year was this? A. This was th May.

Q. The last one? A. Yes, sir.

Q. When was the first one? A. The first one wa February. I saw them in February, and the second time came there was the 9th May.

Q. And when was the third visit? A. The next w Friday the 12th or 13th.

Q. What year? A. 1870.

*Cross-Examination.*

By Mr. GRAHAM:

Q. You were teaching school there? A. Yes, sir.

Q. What sort of a school was it—a public school? A. sir, it was an entered school.

Q. Had you been examined and got a certificate fro commissioner of the county? A. No, sir. I was teachin entered school.

Mr. BADGER. If the counsel will allow me to ask a tion I should be obliged.

Mr. GRAHAM. Certainly.

By Mr. BADGER:

Q. You say you were paid $10 a month? A. Yes, sir.

Q. Who by? A. Mr. Ashley, the superintendent.

Q. Was it a colored or a white school? A. A colored school.

Q. Were you paid anything from the bureau? A. No, sir, no more than Mr. Ashley paid me.

*Cross-Examination resumed.*

By Mr. GRAHAM:

Q. You are teaching a public school? A. No, an entered school.

Q. Mr. Ashley was superintendent of public schools in this state? A. I don't know whether you call it a public school or not.

Q. Don't you know that Mr. Jacob Dick was commissioner of teachers in the county of Caswell? A. Not that I know of.

Q. You were never sent to him? A. Mr. Ashley paid me $10 for rent for the school, if I mistake not.

Q. It was for the support of the school in some way—it was a contribution of $10 by the superintendent of public schools for that school? A. He said for rent, but they could pay it to the school teacher, if necessary.

Q. That was paid by Mr. Ashley, the superintendent of public schools? A. Yes, sir, $10.

Q. Did Dick pay it? A. If he did I do not know.

Q. So that you don't know whether the commissioner knew anything about your school? A. No, sir, I was not examined.

Q. Nor the treasurer? A. No, sir.

The CHIEF JUSTICE. How does this inquiry become important?

Mr. GRAHAM. I think it is important to know something in reference to the circumstances under which this witness was there. I am endeavoring to show that he was teaching a public school without any authority of law.

Mr. BOYDEN, Mr. Chief Justice. I think it is very com-

petent to show that the witness was not licensed to te school, and consequently the Kuklux had a right to go and s him.

Mr. MERRIMON. Mr. Chief Justice, the examinatic competent to show that this witness was a surreptitious pe with a view to impeach him in that way, if we can do so.

Mr. GRAHAM. He claims to be a public character.

The CHIEF JUSTICE. His only claim is getting from Mr. Ashley, so far as the presiding officer can see.

Q. You say that you were living at Allen's? A. Yes,

Q. Sam Allen's? A. Yes, sir.

Q. Is he a colored man? A. Yes, sir.

Q. Is he here? A. Yes, sir.

Q. You say that when they came to the house he thru one of them with a sword? A. Yes, sir.

Q. Did he not stick the sword into him? A. I thin stuck it into him.

Q. What else did he tell you at the time he did—did he say that he stuck it into him so far that he had hard wo pull it out? A. Allen's reply that he made was that he

Q. Didn't he say that he could hardly pull it out? A. sir, it was pretty hard to get it out.

Q. Did the man fall on that occasion—did you find h A. I don't know whether he fell off from the steps—I did see him after he got out.

Q. Didn't Allen say the sword went through him? A. did not say whether it went through him or not.

Q. But he did say it went in him so deep that it was cult to get it out? A. Yes, sir.

Q. You didn't take the man up afterwards and bury h A. No, sir, he was taken off that night I suppose.

Q. That was on the occasion of their first visit? A. sir, that was the second visit. That was the first time the tacked us.

Q. The second time that you saw them was when Allen

his sword through one of them? A. Yes, sir, that was the second time.

Q. And the third time, you say, there were between two or three hundred? A. I imagine there were.

Q. Was it moon light or dark? A. Moon light.

Q. This you said was in May? A. Yes, sir, in May.

Q. Don't you think there may have been five hundred? A. I do not know. I don't suppose that many.

Q. You say that on that occasion you had some three or four friends who were sitting up with you when they came? A. Yes, sir.

Q. Did Robin Jacobs live at that place? A. No, sir.

Q. How far did he live from there? A. I cannot tell you how far.

Q. You say the first time you saw them there was February? A. It was the first time I saw them.

Q. When was the next time? A. It was the 9th of May.

Q. When was the last? A. The last was on Friday night afterwards.

Q. You staid there from the first time they came there until the second time? A. I attended my school.

Q. Did any of you go to Yanceyville to have an inquest over Robin Jacobs? A. I don't know, I left the next morning, and I don't know anything about that.

Q. Did anybody take out any warrant to have an inquest over the body? A. I tell you I left the next morning and don't know.

Q. You saw Jacob's body? A. Yes, sir, I saw it the next morning.

Q. Was his gun there? A. I don't recollect seeing his gun.

Q. Wasn't his gun lying by him? A. No, sir, his gun was not lying by him.

Q. Did he not have a gun? A. Yes, sir, he had a gun.

Q. That night? A. Yes, sir, he had a gun that night.

Q. When you parted with him he had his gun? A. Yes, sir.

Q. Was not his gun lying by when you saw his body? If it was I did not see it.

Q. You did not see it the next morning? A. I don't re lect seeing it the next morning.

Q. Were you raised in Caswell? A. No, sir, in Alama

Q. Where did Allen live, in the neighborhood of Leasbu A. Yes, sir, in Hightower township, I think, about four m from Leasburg.

Q. [By Mr. Badger.] Did you all have guns? A. No,

Q. Did you state whether you belonged to any professi A. No, sir.

Q. You are not a lawyer or a doctor? A. No, sir.

*Re-Direct Examination.*

By Mr. BADGER:

Q. Did you understand whether or not this $10 you got from the Peabody fund?

The CHIEF JUSTICE. The presiding officer thinks t that is out of the course of the enquiry here.

Mr. BADGER. The witness having stated that he l that sum, and the managers having attempted to make so point upon it, I desire the witness to explain.

Q. Was it not given to you by Doctor Vogler? A. Yes, Doctor Vogler—that was the man I went to see.

Q. You got the money from Doctor Vogler? A. Yes,

Q. What office did he hold? A. He was a superintend of public schools.

Q. He had some connection with the bureau? A. Yes,

Q. Did you sign a receipt for the money? A. Yes, sir.

Q. Do you recollect the nature of the receipt? A. No, I do not.

SAMUEL S. ASHLEY, *a witness called on behalf the respondent, having affirmed, testified as follows:*

By Mr. BADGER.

Q. You are superintendent of public instruction? A. Y sir.

Q. What position did Doctor Vogler occupy? A. He was assistant superintendent of the freedman's bureau.

Q. Was he charged with the distribution of school funds furnished by the federal government for the education of freedmen. A. Yes, sir.

Q. Do you know about any money paid to this man who has has just been examined? A. No, sir, I don't know anything about it.

*Cross-Examination waived.*

SAMUEL ALLEN, (colored) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. State where you lived in the year 1869 and 1870? A. Caswell county.

Q. What is your age? A. Fourty-four.

Q. What is your occupation? A. Well, sir, I am a shoemaker.

Q. State whether you have ever been visited by disguised men and if so what they did? A. I have. I was visited by them on the 9th of May, 1870.

Q. That was the first time they visited you? A. Yes, sir.

Q. State what they did? A. They came first and struck against the door with a club, a kind of drove against it and burst it open. Then they commenced calling to open the door. I was not asleep. It was between twelve and one o'clock. I acted if I was asleep, and when they tried to open the door I said, "It is a late hour, what do you want?" They said, "Get up, get up, why don't you get up?" several times. My wife said not to do so. After a while, I proceeded to the door and opened it and they commenced to try and burst open the door with a stone and other instruments of wood and some of them shot against the door and the ball struck a nail and turned off and I could see it the next morning. They bursted a hole through the door and then they commenced to call to open the door. I then went and opened the door and they said, "Why did not

you open the door before?" "I said, "My wife wasn't wil
and therefore I delayed." They said, "Come out here."
said, "What do you want of me?" One of them said, "The
you come out the better it will be for you." Another said, "Sh
"him"—and he presented a pistol, but he sort of gave way,
another said "No, no!" Then one said "Shoot him, shoot hi
and he presented a pistol at me. I said, "Gentlemen, you
"you wanted to talk with me, what have you got to say.
"am ready to hear anything you have got to say, if you w
"to talk with me." They said, "Come out here, come
"here," I said, "I shall not do it." I turned around
went back expecting they would make a rush on me and t
me by force from my house. I went and got a sabre that I
at the end of the bed and went back to the door and there
one of them standing near the door and I took that sabre a
thrust it at him with all my vengeance—I am sure I
Then I slapped the door right too and commenced putting
my fortifications.

Q. Your what? A. My fortifications. My door had t
cations to fasten it again. Then they said, "Let us go and b
"up the house." As soon as I got my fortifications u
turned and went through a little window that led into
kitchen of my house, which is weather-boarded, and whe
got in there and discovered that they were striking mat
and geiting rags and other things to make a flame, the thou
struck me that they would surely burn up the house
for the purpose of getting me out. I turned round and w
back through the window into the other house and got b
and went out of the east door and looked to see if there
any of them there. Then I jumped out and run up a li
beyond the house when they saw me, and they said, "Sh
him—shoot him—shoot him," and they shot after me, and t
holload "Catch him—catch him—catch him," and they
after me for about a hundred and fifty yards, as near as I
guess, and then they stopped, and I was very glad they did, f
was tired myself. Then I went on, and I saw no more of th

that night. The second time they were there I wasn't at home. I was coming from Greensboro' to Yanceyville.

Q. That is the only time you saw them? A. That is the only time they ever attacked me.

Q. You saw them the first time they passed in the road? A. Yes, sir.

Q. You did nothing that night? A. No, sir.

Q. Did they make any noises? A. Oh, screaming.

Q. How were they disguised? A. In white—the moon was up then. I could see nothing but white—you know I did not attempt to count them.

Q. How were these men disguised the night you struck one with the sword? A. They were disguised in white gowns; it seemed like to me it came over the head and fitted down here; there were sleeves in it and horns up here. The one that talked to me mostly had a kind of—it looked like it might have been a kind of dagger in a sheath of wood hung down here by his side. He was the man that did the talking most—"Come out here."

Q. Did you know any of those men? A. I don't think I did, sir.

Q. What took place the next morning? A. The next morning when I got back home there lay a club about four feet long, which was not shown at all that night when they were talking to me at the door. I saw nothing but their pistols and this weapon, as I told you.

Q. How many pistols did you see? A. It seemed like the most of them had something. But I saw no stick or hickory. The next morning there were three—one of them I could sit here and reach that gentleman with, [referring to Mr. Merrimon, counsel for the managers.] It was as thick as my thumb at the big end of it, a regular ox driver, and the other two were about four feet long, I think about the size of my finger, like hickory switches, that lay out there near the house by the door or the end of the chimney.

Q. Where did you stay that
woods, about three quarters of
Q. You did not come back
stated? A. No, sir.
Q. Are you living in the
sir.
Q. When did you leave?
think—on the 15th, I believe,
Q. How long after this visit
Friday night—that was Monday
the next Friday night it was at
home Saturday evening by dus
morning to leave that country.
Q. What caused you to lea
derstood they said, and what
had made, by persons that were
the upper end of the lot that
down amongst them to my ho
me—so he said—why I would
for my belief was that the decr
just when the opportunity affor
Q. About Robbin Jacobs, di
Jacobs? A. No, sir, that was
reached home—Saturday in the
Q. State whether or not ther
these outrages? A. No, sir, th
Q. Any attempt to punish
more have attempted such a th
Q. Any prosecution of it?
offer it.
Q. Why didn't you attempt
I was afraid to do it. I was afi
means whatever.
Q. Afraid of what? A. I
afraid after this second raid to
on any business it made no odd

Q. Tell me now whether you know of your own knowledge of any other outrages in the county? A. Well, I never saw any other, but I saw persons who were whipped.

Q. That is what I mean—state who they were? A. Well, the one that I saw was a young man by the name of Hightower.

Q. Did you see his back? A. No, sir, I did not take his clothes off and look at him.

Q. You did not see his person at all? A. No, sir, I did not see his person naked.

Q. What did you do when you reached Caswell? A. I went to Yanceyville and delivered a message to Mr. Stevens that was given to me by my wife. I got home on Saturday. She told me on Sunday morning of a message that a certain lady had delivered her for me to carry to Mr. Stevens.

Q. How long was that before the murder of Stevens? A. I don't think that it was much over a week; it might have been over two weeks.

Q. Where did you go from Yanceyville? A. I went from Yanceyville to Greensboro'—took the cars at Greensboro'.

Q. Did you lodge any complaint against anybody in regard to the outrage committed on you? A. No, sir, not particularly, only with Mr. Stevens.

Q. You told Mr. Stevens about it? A. Oh, yes, sir, I told him about it. I told him about the first time.

Q. Did you apply to him for a warrant. A. No, sir, I did not.

Q. Where did you go from Greensboro,? A. I came from Greensboro to this place.

Q. What did you do when you got to Raleigh? A. When I got to Raleigh I went to the governor and informed him of the condition of that county and my condition. I had done that one time before—I did that the first time they were seen in that neighborhood.

Q. When was that? A. That was in February.

Q. You say you came down and informed the governor then? A. I did, sir.

Q. State what conversation you had with the governo second time you saw him—the last time? A. The se time I saw him here ——

Q. Tell all you told the governor? A. Well, I canno you, I don't reckon, all I told him. But I will tell you w can. I told him that myself and the colored people o county, as a general thing, to my knowledge, were in terror—in a state of terror and it was their request that should be protection sent there for them—myself as one h been run off from all I possessed in the world, the dang which I was exposed, and that if there could be any such as giving us protection, I wanted him to do it. If he wou nothing more, if he would only furnish men to go over me to guard me while I should get away with my things, knew it would endanger me to go to that county by mysel

Q. Did you say anything to him about the power of civil authorities? A. No, sir, not particularly, only I told there could be nothing done with these men, of course, f could not swear to the persons of any men and they coul be reached by the civil law.

Q. You say you told the governor that? A. I did, sir.

Q. State whether or not you did not freequently call on l A. Yes, sir, I got here the 17th of May, I think, and vi him for one week right straight on, pretty much, just goi my meals and returning; and not only with him but with a general that was here, I think he was called a ge —a Mr. Littlefield. He occupied somewhere by here.

Q. Then you importuned the governor to take some s A. I did, sir, with all my heart and with all the earnestn my soul.

Q. State whether or not you are generally acquainted i county of Caswell? A. I was, sir, as well as any man.

Q. You knew the condition of the colored people?

did, sir, I certainly did, they had more chat with me than any other man—any other colored man.

Q. State whether or not you were deputed by a very large number of them to represent their state to the governor, or whether you so stated to him—whether you stated to the governor that you were requested by the colored people of Caswell generally—— A. I certainly was. I had the concurrence of all that portion of the county.

Q. I understand you to say that you stated to him that the civil laws could not protect you there at all? A. Oh! no, sir, no protection whatever, not a bit, it was not worth a cent, of course; it was not worth a cent. All the law that could be, would be worth nothing, that is the civil law.

Q. Do you know anything about John Burden's son? A. I don't know anything about him only from good authority of reports.

Q. I don't want any reports? A. That is all.

Q. Who was he? A. He was the son of John Burden—Robert his name was—Bob Burden.

Q. Was he a colored man or a white man? A. A white man.

Q. Is he alive or not? A. I don't know—the last account I heard of him ——

Mr. MERRIMON. You need not speak of the account.

Q. When did you last see him? A. The last I ever saw of him to know that it was him was his passing my house going in the direction of home. It was sometime before I was attacked. He used frequently to pass that road.

Q. Wasn't that a pretty large settlement of colored people where you lived. A. Yes, sir.

Q. State whether or not you know of your knowledge of any other outrages or noises made that night in that settlement? A. No, sir, I could not say of my knowledge—that is if you mean for me to see it.

Q. I mean to see or to hear? A. Oh, yes, sir.

Q. I don't mean what people told you?

Q. [By the Chief Justice.] Only state what you k

A. No, sir, I don't know as I do—the night they we Eliza Wilson's, I thought I heard somebody that night a stated it to my folks that I thought I heard her hallo but I did not know that they were there until the next m ing. The next morning it was said that they were th That was the first night they were out. I went up on hill by the school house, and I heard her halloaing.

Q. State whether or not you know this last witness I e ined, Joseph Mebane; A. I did sir.

Q. Did he stay at your house as he stated? A. Yes, si boarded with me at my house.

Q. What was he doing? A. He was teaching school th

Q. State whether or not he left before you left? A. sir, he left before I left the county. I was gone from h mind you. I think Thursday, I left home for Greensboro' this happened on Friday night. He was there when I home but when I came back on Saturday evening he was g

Q. Did he board with you—stay in your house? A. sir.

Q. He was there the night that you have described? Yes, sir.

Q. Where did he sleep after that outrage was commit A. All the times that I ever knew he slept in the woods, wh was at home I slept there myself.

Q. While you were at home he slept in the woods? Yes, sir, and I did myself every night I was at home. My was out also.

Q. State whether or not you and your family ever slept in the woods? A. Yes, sir, while I was there, and they every night afterwards, so I suppose.

Mr. BADGER. There is a question I propose to ask witness. It may come in conflict with the ruling of the sen this morning, and if so, I don't want to press it. I asked t question of a former witness, Mr. John W. Hardin, and whic reported on page 1857 of the printed journal of proceedings

this trial: "Q. State, if you know it, whether there was a "feeling of terror and alarm in that county? Mr. Graham. I "hope the counsel will not lead the witness. Q. State your "judgment of it? A. My judgment is that the republicans "were alarmed." I desire to ask this witness the same question if the ruling of the senate this morning does not, in the opinion of the chief justice, prevent.

Mr. GRAHAM. We object to the question.

The CHIEF JUSTICE. Under the ruling made by a vote of the court this morning the testimouy is not admissible.

By the CHIEF JUSTICE:

Q. Were you born a free man? A. Yes, sir.

Q. You never were a slave? A. No, sir.

By Mr. BADGER [resuming]:

Q. Can you read? A. Yes, sir.

Q. What has become of that paper you took to Stevens? A. I gave it to him and left it with him.

Q. Do you know what it contained? A. No, sir. Which paper do you speak of—the one I took to him?

Q. You said you went to Yanceyville and some lady sent a paper? A. No, sir, it was not a paper—she did not send it in writing; it was verbal.

Q. A verbal message? A. Yes, sir, she just told my wife, I suppose——

Mr. BADGER. You need not repeat that.

*Cross-Examination.*

By Mr. MERRIMON:

Q. In what part of the county of Caswell was this affair? A. Well, it was in the eastern portion of Caswell, close to the Person line.

Q. How far? A. Well, I think not more than three miles.

Q. Where did you live? A. I lived on the same road, pretty much—further down towards the Orange line.

Q. How far from the Orange line? A. I lived about four miles before that, that is the greater portion of the time. Two years I did live a little nigher the Orange line.

Q. Did you belong to the League? A. I did.

Q. Did you belong to the Heroes of America? A. I di

Q. You spoke of communicating to Mr. Stevens. We and Stevens particular friends? A. We were.

Q. What do you know about the burning of barns t A. Nothing at all.

Q. Did ever hear it talked of in the League? A. I di

Q. Do you know that any of the barns were burned? did not.

Q. Do you know it now? A. I do not.

Q. You never heard of it? A. Yes, sir.

Mr. BADGER. You cannot give any rumors.

The WITNESS. I said I had heard of it.

Q. You never heard of it? A. Yes, sir.

Q. I asked if you ever heard of it? A. I told you I di

Mr. BADGER. I object to the question.

The CHIEF JUSTICE. The presiding officer doe think you can ask him if he ever heard of it.

Mr. MERRIMON. I suppose it is competent with a to impeach the witness.

Mr. BADGER. State the time and place.

Q. Have you ever been charged with any crimes. A. sir.

Q. Have you ever been charged in court with any cri A. No, sir.

Q. Never in your life? A. Never in my life.

Q. You have never been charged with larceny? No,

Q. Never in your life? A. Never in my life.

Q. What charges have been made against you? A. at all—not to me—never in the world.

Q. What did these men perpetrate this outrage on you A. I cannot tell—they stated nothing.

Q. Nothing at all? A. No, sir.

Q. No ground for it? A. No, sir, they stated no gr for it at all.

Q. You had no quarrel with anybody? A. None at all

Q. You had no difficulty in that neighborhood? A. No, sir.

Q. Had this school teacher any difficulty with anybody? A. Not a word.

Q. They did it through pure wantonness? A. I cannot tell what they did it for.

Q. Where did this school teacher that was here a while ago come from? A. He came from Alamance county.

Q. Was he raised in Alamance? A. Yes, sir.

Q. Was Stevens a member of the League? A. I don't know of my own knowledge.

Q. You spoke of having a very general acquaintance with the county—how did you get that acquaintance? A. By living there and going to and fro.

Q. You lived on the edge of the county, what did you do going to and fro? A. Well, sir, I was a man that went about some.

Q. What was your business? A. I have been going about in the country.

Q. Are you a preacher? A. No, sir. I have spoken though—I made several speeches.

Q. Oh, you were a politician? A. Yes, sir, I was—I took part in it.

Q. Had you spoken at a good many places in the country? A. I had spoken at several.

Q. What particular localities had you spoken in? A. I spoke once at Roxboro', I spoke at Prospect Hill, I spoke at Leasburg, I spoke at Yanceyville, and I spoke again at Oak Grove, I think they call it—not far from Yanceyville.

Q. Is Oak Grove in Alamance or Caswell? A. It is in Caswell—Oak Grove or Oak Hill.

Q. These places you speak of in Caswell were on the line were they not? A. No, sir. Yanceyville is not on the line of course.

Q. I say with that exception are the other points on the line? A. Yes, sir, Prospect Hill is and Hightower——

Q. Is on the line isn't it? A. No, sir, that is in t terior.

Q. On the southern part of the county? A. Yes, si

Q. The south-eastern part? A. The eastern portion much.

Q. You say you knew the colored people generally county? A. I did. I had an extensive knowledge of

Q. What other outrages did you know of in that co A. I did not know of any others.

Q. And did that single outrage produce all that s terror that you talked about? A. No, sir, I did not say

Q. You were not afraid of any outrages? A. You me if I knew them. I had to see them I suppose be could say I knew them.

Q. You don't know of any others? A. I have hea them and if you will allow me to speak, I will tell you caused the most of it.

Q. No, I don't want to hear any more of your speech am afraid you have been speaking too much—I am your speeches did harm. [Laughter.] A. I don't kn they did.

*Re-Direct Examination.*

By Mr. BADGER:

Q. Weren't you a pretty prominent republican i county? A. Yes, sir.

Q. Were not these speeches you made not in the inter the republican party? A. Well, they were sometimes. member that Mr. Brainnard——

The CHIEF JUSTICE. It is not necessary to repeat

Q. I want to find out what was the character of the spee A. There have been several democrats elected by my exert

Q. [By Mr. Merrimon.] Weren't you a pretty good d crat? A. They liked me mighty well some——[laughter

Q. Were you a candidate for public office at all? A. sir, I was for magistrate.

Q. Were yon elected? A. No, sir.

Q. You were defeated? A Yes, sir.

WESLEY MITCHELL, (colored,) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. Give your age? A. I am about twenty-four years old, I reckon.

Q. What is your occupation? A. Shoemaker.

Q. Where do you live? A. I live in Alamance now. I did live in Caswell last year, and ever since the surrender.

Q. Ever since the surrender you lived in Caswell? A. Yes, sir.

Q. Up to what time? A. I believe it was October. I left Caswell the 14th of October.

Q. Of last year? A. Yes, sir, this last year past.

Q. What part of the county did you live in? A. I lived in Caswell, and I lived in ——

Q. How far from this Mr. Allen's house? A. I lived right at his house, about one hundred and fifty yards, I reckon, from his house—not that far, I reckon.

Q. State whether or not disguised men ever visited you, and if so, what they did, and all about it. A. Yes, sir, they visited me.

Q. When was it? A. The first time they come along there was February, I think. I just saw them passing in the road that time. I heard them coming; I heard a dreadful noise up the road. I run out of the house and saw them coming. I went back and shut the front door, came out of the back door, and they didn't come to the door. Then I went back and opened both doors and stood in the door till they passed.

Q. How many do you think there were? A. Well, I think there was about twenty or twenty-five—may be more than that.

Q. What did they do that night besides ride by? A. They never did anything that night except pass on by.

Q. Did they make any noise? A. Yes, sir, they made a dreadful noise.

Q. What sort of a noise? A. They made a noise like geese and some like dogs; some were going one way and some

another; some were squalling; and I can't tell what so
noise they were all making.

Q. When did you next see them? A. The next time I
them was the 9th of May.

Q. Day time or night? A. In the night.

Q. State what happened then? A. Well, I saw them at
Allen's house, and they woke me up by bumping at his
I raised up—I was in bed—and there was a little crack
opposite my house, next to his house; and I got up and pe
through the crack. I saw his yard looked white with disg
men. I knew what they were as soon as I saw them, b
just stood up on the bed and looked at them and heard t
bumping and bumping at his door. I got up and thoug
would go out, and then I thought they may come to my h
I got up again and stood on the bed, and I heard them
"You come out here," and I heard them tell him to open
door. I could hear them talking.

Q. Was that all at Allen's house? A. That was all do
Allen's house.

Q. What else did you see and hear?

The CHIEF JUSTICE. Go on and tell.

A. That is what I was going to. I was listening to
they said. The next I heard was the men at Allen's
"Shoot him! shoot him! shoot him?" And I saw him
ning. I couldn't tell from there whether he was in his dra
and shirt; but he looked white, and I heard them say, "S
him! shoot him! catch him!" The next time I saw the
could see them down to his house marching and muste
around. I couldn't tell what they were doing; and they c
back there and came through my garden, crossed over
fence and came right along. I was inside the house, a
could hear them walking outside the house, and I expe
them to come in but they didn't. I heard them talking t
wife, and heard her talking to them, but what they said I c
not know. So they went off that night and that is all I k
about it. The next time they came back was on a Friday ni

Q. How many were there of them that night that you have just been talking about? A. I don't know how many there were. I never went out of the house, I couldn't tell. It appeared to me like there might have been some seventy-five of them that night.

Q. Go on and tell about the next night? A. Well, the next night they came on a Friday night. I was asleep when they came, I reckon it was about one o'clock and there was a window right at my house where I had had a bench where I shoemaked. I saw them passing by and heard them talking as plain as I am talking, and it scared me because I hadn't rested any in the house since they came there on Monday night. I staid in the house, but I never slept much—I was up and down all night long; I expected them to come back again, and I lay down very little in the night. I lay down I reckon about twelve o'clock. I reckon I had just got sound asleep though and they woke me up talking, and I jumped upon the floor. I could tell that they altered their voices, and then I went to the bed again, and got upon the bed again, and stood and looked down towards Allen's house and the yard was as thick with them as they could lie—about an acre of ground, I reckon, betwixt the road and his house, and it looked as though it was thick with them.

Q. An acre of ground looked like it was thick with them? A. Yes, sir, about that much betwixt his house and the road, I reckon. It appeared to me like there was more than that but it was thick with them.

Q. Were they in disguises? A. Yes, sir, the moon shone as bright as day, and I could see the red tossels on their heads, but I couldn't see anything about their eyes until they came to my house. I will tell you about that directly. [Laughter.]

Q. Go on? A. Six of them, when I was standing up there, went from my house down to Allen's, and twelve of them came back. When they came, some were by the back door and some at the front door knocking and asking—" Open the

door." I never replied to them till they said the s
three or four times.

Q. Did they call you by name? A. No, sir, they
said, "Open the door." They never called me
Well, I got up after a while and opened the door.
up, and they said to me, "Go to the front door; don'
"this door." I went to the front door and I opened
and they made their obeisance to me. [Laughte
asked me, "Do you see us?" I told them I did.
"Who have you got here?" Said I, "I am here."
"Where is Allen?" Said I, "I don't know anythi
"him." Said they, "Have you got anybody here?"
"I haven't got anybody here but myself and my
"George and a little boy"—just so. They stood the
and said, "Where is that little boy?" I said, "He i
They said, "Call him up—they wanted to see him?"
him up, and they asked him what he was doing ther
said he was doing nothing only he was come to stay
uncle Wesley to keep him company. They asked
he come to keep me company, and he said that I g
come and stay there.

Q. [By Mr. Boyden.] What was that? I did not h
This little boy told the Kuklux that I got him to c
stay with me. They asked me what he was doing the
told them that I had nobody to stay there with me, t
lost my wife and wanted somebody to keep me compa
got this little boy to come and stay with me. They th
me again where was Allen, and I told them, "I do
"anything about Allen,"—just so. Then they asked me
scared. I told them I were. They said, "You don't
"you are scared." I told them "I were,"—just so. T
told me to call my brother, and I called him down.

Q. What is your brother's name? A. George. An
him down, and they asked him where was Allen.
them he didn't know anything about Allen. He said h
down to Mr. Reed's. They asked him again and he t

he did'nt know--he worked over to Mr. Reed's. They asked him where was P. M. Reed's, and he told them, right over the other side of the fence towards the field. And one of them said, "Oh, yes."—and then he took it back. Then one of them asked him again, "Where did you say you worked?" Said he, "I work over here to Mr. Reed's." Said he, "'M—'m——'m,—where's that?" Said he, "Over in the field." Said he, "'M—'m—'m,"—just so. Said he, "Do you know Sam "Allen?" "Yes, sir, I know him." Said he, "You have got "him to find to-night,"—just so. Then they said to me, "Come on, you and your brother; you have got him to find." "Well," said I, "let me get my breeches and put them on." "No," said he, "we've been to hell many a time in our drawers, "and you can go too,"—just so. I walked out of the house and shut the door, and they said, "Little boy, you can stay in there; there ain't nobody going to hurt you." They carried me on down there, and I got over the fence.

Q. Carried who down? A. Carried me on down there—me and my brother George, and got over the fence there at the garden and stopped. Said they, "You have got him to find to-night." "Well," said we, "we don't know whether he is there or not." "Well," said they, "the door is open." "Well," said I, "of course he cannot be there if the door is open." We went in there and there was nobody at his house. There had been a fence there, it was torn down, you know, and there was no fence to get over. "Well," said he, "you have got him to find to-night, if you don't we will carry you in the woods and swing you to a limb," just so. There was a door in the big house. Then I passed by the big house and went to the kitchen. My brother George went into the big house and I was in the kitchen. They told me to build a fire. When I was in there they thought I was too long in getting up the fire. Well they cursed me for being so slow and I told them I hadn't anything to kindle it with. There was a broom there and one of them said put that in the fire, [laughter.] So I put it in the fire, as he told me. But the broom did not

burn. One of them come to me. Said he, "God d—n y
you don't make that fire burn, I will thrust this ba
through you down into the floor." "Well," said I
will make it up as quick as I can," and finally I go
fire started. I looked around and one of them said,
"you don't find him to night we will carry you out int
"woods and swing you up to a limb." I looked in the ki
and did not see anything of him there, and I went in the big
where my brother George was. I told him to go throug
look, and he said he had done looked all over the house.
they told me to go up in the loft, and I went up in the lo
looked for him, and I could not see anything of him. I
down and told them that he was not there. That did n
isfy them; they told me to go and look again. I told th
go. They said, "No, sir, we aint going into anybody's
"in the dark." They made us go back there and look
We looked again. That was twice I had looked his house
They then all came in with their guns cocked. Some of
run up to the bed and run their guns under the bed, son
one place and some in another. They looked under th
and there was a *savior* there—a scabbard or a savior, I
know what. They got them out—they it got and made a
ado.

Q. What sort of a thing was that? A. A savior, I said

Q. [By Mr. Manager Sparrow.] What was it like?
don't know what kind of a looking thing it was. I don't
whether it was a savior or a scabbard.

Q. You know what a savior is? A. A savior—no, I
I don't know what it is. Some calls it saviors, some calls
swords. I judge they are a savior, but I don't know wha
are. [Laughter.]

Q. Go on with your tale? A. Some of them went the
looked up in the loft; there was nobody up in the left.
came down again then and stood there and talked awhile.
had a big chest there and they took it out and bursted th
to pieces. Said they, "Do you know what we are looking f

I told them, "No, sir." Said they, "We are looking for powder and "guns; we understood that he had twenty-five army guns here "and a crowd organized to attack us." I told him that I did not know anything about it. Then they bursted that open and took out all the clothes and everything and could not find anything and put it back. They bursted open his trunk and they did not find anything in there and they put that back. Then they bursted open a little glass drawer, I think there was nothing there but some papers, and they put that all back. Said they, "We don't find any, he hain't "got any here." Said I, "No, he hasn't got any powder or "guns here that I know of." Then he said, "Well, you tell "Sam Allen when he is back that he belongs to us, and the "devil and we are going to have him—do you hear?" I told them I did. Then they told me so again—they told me so as much as three times. Said they, "You be sure to tell him "that, and tell him we are going to hang him away up there "by the neck when we get him." I told them I would do it. Well, they went down to the shop then, while some of the rest were looking about and talking—I could not understand what they said—they were talking about one thing and another. Some of them went down to the shop and bursted open the shop door. They were doing something down there I don't know what they were doing. They carried my brother down there and kept me in the house. After a while one of them said, "Do you know any of us," I told him I did not. Said he, "You are sure you don't know any of us." I told him I did not. One of them asked me "For sure"—said he, "be you sure you don't know any of us"? He had a pistol up at my breast, said he "G—d d—n you, tell the truth now do you know any of us?" "No," said I, "I don't know any of you, how could I know you men disguised in that way. Well, he stood there a while. Now, said he, "Look here, let me "tell you if you don't know any of us; don't you have any-"thing to do with the Kuklux, nor meddle with them and "we will have nothing to do with you." I told him I would

not. They went down to the shop then and told the ot
o come on; and whether they all come or not I don't kn
Then they went on up to my house after that, I asked
could I go in and they said yes, I could go in. I asked
could I go in and make up a fire, they said yes, make
fire and shut the door. I shut the door and that is the
know of them. They went on then up towards old
Paylor's.

Q. Do you know Robbin Jacobs? A. Yes, sir, he wa
wife's uncle.

Q. Where did he live? A. He lived about two miles
half I reckon, or three from where I lived, right south
house.

Q. Did he hold any office? A. Robbin Jacobs?

Q. Yes. A. No, sir, he was nothing but a farming ma

Q. Did you see his body after he was killed? A. I di

Q. Just describe in what manner he was killed? A.
sir, after I saw them out there that night, I thought the
this Allen's little girl out there. And I knew Allen
there for I knew he went away, and I did not think hi
would go to that place. It was right beside the fence
there were logs and no trees and I thought they had hi
and went away.

Q. What night was that? A. That was on Friday
after they were there Monday night. That was the last
they were there.

Q. State what occurred after that? A. Next morning
I got up—I never went out that night——

Q. What did you hear that night? You say you
something about the hogs. A. I am just telling you. I
think she would go out there and put her out there, ther
only logs and a fence; but I thought they had hid the
there in the logs. I could not hear no man talk and no
like a woman out there. I could not hear anybody say
thing. The next morning when I got up, I told my br
George to go down to Mr. Allen's house and ask if the

Rebecca. She said no, she didn't have Rebecca—that is her little girl. She said Rebecca had gone home with the school children. I turned around a time or two and thinks I, I will go out there and see what they were doing out there. I got within about twenty-five yards, I reckon, of the fence, and I discovered a man, I did not go quite to him but I went to the fence and I see'd then——

Q. Was that the place where you had seen the Kuklux the night before? A. Yes, sir, there was the place. Here was my house here [illustrating] and that was north of my house—betwixt my house and old man John Paylor's. I just turned up the fence and called old man Paylor—an old man that lived tother side of my house.

Q. A colored man? A. Yes, sir, and I told him here is old Uncle Robbin Jacobs near about dead.

Mr. GRAHAM. You need not tell what took place between you and him.

The WITNESS. Between me and him?

Mr. GRAHAM. Between you and this man you were talking about last—old man Paylor and yourself.

The WITNESS. All right, all right, all right.

Q. State what you saw? A. That is all I saw. After I told him that I went over to the fence and halloaed to him and he ketched hold of his hand and he seemed to try to say something to me, but he could not say it and I just turned off from him and saw him no more.

Q. What was done with him? A. He was shot here betwixt the fore shoulders.

Q. Betwixt the fore shoulders? [Laughter.] A. I mean betwixt the shoulders—I make mistakes sometimes. [Laughter.]

Q. Was he dead? A. He just barely had breath in him.

Q. Were you present when he died? A. No, sir. I went after his son, and told old man John Paylor that he could stay there if he was a mind to, and I would go after his son. The old man examined him before I went away, I did not.

Q. Did you see any blood on him at all? A. Yes, sir, he

was bloody all over his side here, on his shoulders a
around his neck here, and I asked John Paylor to e
him and see where he was shot, in order that I might k

Q. How far was this from Allen's house? A. Well,
know exactly how far it was, but it was as far as fro
down to the gate as you go out at the street.

Q. One hundred and fifty or two hundred yards? A
sir.

Q. Did the man die? A. Yes, sir.

Q. Did you see him after he was dead? A. I saw hi
he was dead.

Q. You say he was not able to speak? A. He was n
to say a thing. He just sort of opened his mouth; I co
him part his lips.

Q. Did you hear any guns shot that night? A. I he
after they left my house.

Q. Was it in the direction where this body was foun
Yes, sir. I could tell you what I saw through a crack.

Q. Tell it? A. After the first two guns were fired
looked through a crack or a little window and I saw
standing working so, [moving with his hands as if stri
blow,] and I said to my brother, "I see he is exercising
"out there."

Q. Was that a Kuklux? A. Yes, sir, they got an
out of Allen's house and I thought that was what
chopping on a stump; and besides that, while I was
(I forgot about that)—I saw this gun. That was what th
knocking on the stump. It was broken in three pieces.

Q. You thought it was an axe? A. Yes, sir.

Q. But when you went there the next morning you
it was a gun broken in three pieces? A. Yes, sir.

Q. Was anybody ever indicted or punished for that t
know? A. No one at all.

Q. Did the coroner sit upon him? A. No, sir, they
about it but they never had it did.

Q. You never was examined as a witness at all about it? A. No, sir.

Q. You never were examined as a witness at all about it? A. No, sir.

Q. You say the coroner did not sit on him at all? A. No, sir. There were some men—some five or six white men down there at Frogsborough at a barn raising, about a quarter of a mile from my house——

Q. Where are you living now? A. I am living in Alamance.

Q. What part? A. I don't know what part of Alamance it is. It is betwixt Mebane's depot and Trollinger's—Haw river house you may call it. Some call it Trollinger's and some Haw river house.

Q. How came you to leave the county of Caswell? A. Well, one thing was, I had lost my wife. I had nobody to take care of my baby, and I had no friends there—I had friends but I had no kin-people, but my kin-people were in Alamance; that is, my father and all my kin-people.

Q. State whether or not there was not a great terror among the colored people?

Mr. MERRIMON. I object to that sir.

Mr. BRAGG. It is a leading question, directly.

The CHIEF JUSTICE. It will have to be ruled out.

Q. You went away from there? A. Yes, sir, I went away because I was afraid to stay there.

Q. [By Mr. Graham.] How long did you stay there? A. I staid there till October. If I could have got away before I should have gone, but I was obliged to stay there that long.

Q. Why? A. Well, I had a crop of tobacco that I had to tend, and I had hired a little boy to work, and I was obliged to stay there in order to cut it and to keep the worms off of it, and one thing and another. I wanted to stay till the people settled up with me, though I didn't mind that so much.

Q. What was the state of feeling between the two races—the colored and white races—in that county?

Mr. MERRIMON. State whether you know it first.

The WITNESS. Whether I know it?

Mr. BADGER. Yes.

The WITNESS. I do sir.

Q. Go on and state what it was? A. It was bad.

*Cross-Examination.*

By Mr. MERRIMON:

Q. Why—didn't the white people employ the colored there? A. They employed them, sir.

Q. Didn't the colored people work the white people's A. They did, sir.

Q. Generally? A. They did for a while. There w while they turned them off there and said they wouldn them.

Q. Tell us what case now? A. Which case?

Q. Yes. A. You mean what men done it?

Q. Yes. A. Why, I could name several men around that said they wouldn't have no hands.

Q. Just state now any man that turned people off John Henry Fuller is one.

Q. He turned them off? A. He said that no hands s work his lands—"no radical niggers"—I will tell it said. He said "no radical niggers should work his lan

Q. Did any negroes work his land? A. They did.

Q. Were they radical negroes? A. They were.

Q. Don't they work his land now? A. They do.

Q. Aren't they radical negroes? A. They are—or r lican; whatever you call them.

Q. Now name another one? A. Well, sir, the next Mr. Bluefort Cooper.

Q. Did he turn anybody off? A. He said they sho work his land.

Q. Did he turn them off? A. Did he turn them off?

Q. Yes. A. He had to get them before he could them off.

Q. Did they work his land? A. They did.

Q. Did he turn them off? A. They did work it, because he said he would employ them.

Q. He did employ them? A. Yes, sir.

Q. They were radical negroes? A. Yes, sir.

Q. Did you hear either of those men say so? A. I heard Mr. John Henry Fuller say so.

Q. Does he live in Caswell? A. He does.

Q. Where did you hear him say it? A. I heard him say it at a store up above his house.

Q. Don't the negroes work his land? A. I say they do work it yet.

Q. Don't he pay them? A. That is too hard for me to say—whether he does or not.

Q. Don't you know that he pays them? A. I don't.

Q. Don't the colored people generally over the county work for the white people and the white people employ them? A. They do.

Q. Don't they hire them for the purpose of servants? A. They do.

Q. Don't they hire them to work their farms? A. They do employ them to work.

Q. Don't they sometimes rent their lands to them? A. They do sometimes.

Q. Don't they get along there in their business transactions? Do they have many law-suits with one another? A. They have, in time; not during this last year, though.

Q. Do they have a great many lawsuits with one another? A. Now?

Q. Any time. A. Well, they did the year before last. Hold on,—I am wrong. It was the first of last year, along in January, I think, and February and March.

Q. They had a great many lawsuits? A. Yes, sir.

Q. How did you become acquainted with this general state of feeling in the county—what are you—are you a politician too? A. I haven't been a politician.

Q. How did you get acquainted with this general state of

feeling between the people of that county? A. Well tell you. I am a shoemaker, and have been among the p that is one way. And besides, I am a republican and have been ever since I have been in the county, and been there ever since the surrender.

Q. Where did you live? A. I made my stationary h Leasburg, when I first went there.

Q. Did you travel about? A. No, sir, I worked all burg six or seven months, and I moved from there to M Thompson's, and I worked there till a little while christmas, I believe, and then there wasn't any money county—much—and concluded it wouldn't do for me to the trade much when I couldn't get pay for it.

Q. Did you stay all around there in that neighborhoo Yes, sir.

Q. Were you ever north of Yanceyville in your lif 'Tother side of Yanceyville, do you mean?

Q. Yes, towards the Virginia line? A. I have b Milton and to Moore's store.

Q. That is down the other side of the county? A. ain't there; Milton is in Caswell.

Q. Were you ever at Yanceyville? A. I have b Yanceyville several times.

Q. Were you ever up towards Danville? A. Yes, been to Danville several times.

Q. You are simply a shoe-maker? A. Yes, sir.

Q. They were after Allen that night, weren't the Yes, sir.

Q. Don't you know that there was a general con among the people around there in Orange and the co Caswell there, that this man Allen was stirring up there?

Mr. BADGER. We object to that. The counsel wil to ask for general reputation. The senate has ruled o timony of that character.

Q. Did they say they went there after guns?

The CHIEF JUSTICE. Yes, he said they looked for guns and examined a chest expecting to find some.

The WITNESS. That's what I have said. The last time they said they came there ——

Q. To get the guns? A. Yes, and him.

Q. What were they after him for? A. They didn't say; they didn't tell me that.

Q. Don't you know what they were after him for? A. No, I don't know what they were after him for. I never knowed nothing about the man, only that he was a republican and was liked.

Q. Did you and Allen live in the same house? A. We did a while, before I was married, and then I built a house close to his.

Mr. MERRIMON. I would state, Mr. Chief Justice, that the question I proposed to ask the witness is not at all like the other. The object is to show the motive of this act. I propose to show by this witness, if I can do it, that they were after this man Allen because he was a seditious man, and these people believed that he was stirring up this strife, inciting barn-burning, etc.

The CHIEF JUSTICE. What question do you propose to ask?

Mr. MERRIMON. I propose to ask him whether he does not know that in that neighborhood the common reputation was that this man Allen was a seditious person and that he was stirring up strife between the white and black races, and inciting black men to burn barns.

The CHIEF JUSTICE. Yes, you can ask it if he has a general reputation of that kind.

Q. I ask you whether the general complaint was not—or the common reputation—you know what that is? A. Yes, sir.

Q. What people generally say? A. Yes, sir.

Q. Was, that Allen was stirring up strife between the whites and blacks, and inciting the blacks to burn barns. A. No, sir

Q. Was that not his general reputation? A. N
that time.

Q. What time was it then? A. Not at all while h
but the time he went away——

Q. Was it about the time he shot himself? A.

Q. Was it before or after that? A. No, sir, for
that at the time he shot himself there were no K
and nothing was said about no barns—nothing
people were all quiet about the time he shot him
that he was a republican himself and went about a
good deal, and I suppose that interested them very
what time it was I don't know. I heard people tal
and say they didn't like him.

Q. Wasn't he a very odiousm an in that neighbo
Among the people?

Q. Yes? A. Yes, sir.

Q. Was it said that he stirred up strife between
people and black people? A. No, sir.

Mr. BOYDEN. The witness does not know wh
means.

Q. Do you know what "odious" means? A.
don't know.

Q. Well, I mean this: Wasn't he a very objectio
to people there? Didn't they hate him—didn't
hate him? A. No, sir, they didn't. People liked
well—if that is what you want.

Q. Generally? A. Why, yes, sir.

Q. He had the reputation of being a good man?
of course. Allen has been as popular a man among
black there as I know of. He was called about the
maker that there was there, and everybody li
[Laughter.]

Q. He was a shoemaker? A. Yes, sir.

The hour of two o'clock and thirty minutes having
the court adjourned until eleven o'clock on Monday

## THIRTY-SIXTH DAY.

SENATE CHAMBER, March 13, 1871.

The COURT met at eleven o'clock a. m., pursuant to adjournment, Hon. R. M. Pearson, Chief Justice of the Supreme Court, in the chair.

Proceedings were opened by proclamation made in due form by the doorkeeper.

The CLERK proceeded to call the roll of senators, and the following members were found to be present:

Messrs. Adams, Albright, Allen, Battle, Beasley, Bellamy, Brogden, Brown, Cook, Council, Cowles Crowell, Dargan, Eppes, Flemming, Flythe, Gilmer, Graham, of Alamance, Graham, of Orange, Hyman, Jones, King, Latham, Ledbetter, Lehman, Linney, Love, Mauney, McClammy, Merrimon, Moore, Morehead, Murphy, Norment, Olds, Robbins, of Davidson, Robbins, of Rowan, Skinner, Speed, Troy, Waddell, Warren, Whiteside and Worth—44.

Senator MOORE moved that the reading of the journal of the proceedings of Saturday be dispensed with.

The CHIEF JUSTICE put the question on the motion of Senator Moore, and it was decided in the affirmative.

ADOLPHUS E. DEAVER, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. State where you live, and what is your age and occupation? A. I live in Asheville—make it my home there, and am engaged in the revenue.

Q. Are you now engaged in the collection of the United States revenue? A. Yes, sir.

Q. State whether or not you know the general character of George W. Kirk? A. Well, sir, I suppose I do.

Q. What is his general character? A. I think it is good.

Mr. SPARROW. He says he "supposes" he know

Q. Do you know his general character—the chara bore? A. I think his character is good with the maj the people of the county I live in.

Q. That is where he operated during the war, is it n Yes, sir, he operated a good deal in that country.

*Cross-Examination.*

By Mr. MERRIMON:

Q. Where do you live? A. I make it my home in ville.

Q. Where did you live before you made it your home A. I lived in Madison county.

Q. Did you belong to Kirk's command? A. I wa nected with that command. I did not belong to it as a sol that is a volunteer in his command, as a soldier.

Q. When? A. I say I did not.

Q. When were you connected with it—you say you connected with it? A. I was connected with it in 1864 he was making up his regiment.

Q. In east Tennessee and North Carolina? A. Yes, Strawberry Plains.

Q. Of what class of men was his regiment composed His regiment was composed of men from the western North Carolina.

Q. What else—were any of them Tennesseeans? A sir.

Q. What part of them? A. A good many. The mixed up. Some companies were made up of both Nort olinians and Tennesseeans.

Q. I ask you whether with but a few exceptions the ment was not made up in great part by deserters fro confederate army?

Mr. BOYDEN. I don't know what that has to do wit case. I do not see its relevancy—whether they were des or where they came from.

Mr. MERRIMON. Mr. Chief Justice, you will reme

that we have shown the character of the troops themselves, and I should think where troops or a body of troops are composed in great part of deserters it would certainly be some evidence touching their character. We have introduced witnesses here who have proved that this body of men enrolled by Kirk were a desperate and reckless set of men, that they were cruel and inhuman, and if this witness shall say that these troops were mainly composed of deserters from the confederate and federal armies—men that were lying out in the woods and committing outrages—it seems to us that it is very material.

Mr. BOYDEN. That, Mr. Chief Justice, is proving general character by particular facts which, it seems to me, is utterly out of the question.

The CHIEF JUSTICE. The presiding officer knows of no rule of evidence by which it can be made competent.

Q. Do I understand you to tell this court that Mr. Kirk's character is good through Madison and Buncombe counties? A. I do. It is with a majority of the people.

Q. Perfectly good? A. Yes, sir.

Q. Good for what? A. Well, he was a law-abiding man. I do not know as it is generally alleged that he ever committed any outrages by the majority of people, more than was generally reported of soldiers. He was a man that went ——

Q. Do you know anything about the common reputation that he shot Lieutenant Morgan while he was on his knees praying for his life?

Mr. BOYDEN. I object to that.

The CHIEF JUSTICE. That would be proving a particular fact.

Mr. GRAHAM. I think it competent to prove that the general reputation was that he shot men in cold blood who were his prisoners.

The CHIEF JUSTICE. In that view the question is competent.

Q. How about that? State the reputation of Kirk, as to

whether he and his men did not shoot men in cold blo
they were prisoners?

Mr. BOYDEN. That is not the point.

Mr. Manager SPARROW. That is the question wh
chief justice admits.

Q. [By the Chief Justice.] Was that his general rep
up there. Not what was stated by one or two or seve
was that the general character? A. I think not.

Q. You say that is not the general reputation? A. N
general reputation.

Q. Had you a brother in Kirk's command? A. No,

Q. You had no brother in it? No, sir.

Mr. BOYDEN. I don't know how that would be ev
if he had a brother in the command.

The CHIEF JUSTICE. He says he hadn't.

Mr. MERRIMON. It might go to show the feelings
witness.

Mr. BOYDEN. Not at all.

Q. Were you in Kirk's command at Alamance? A
sir.

Q. Was yout brother there? A. No, sir.

Q. There was a Deaver there was there not? A. Ye

Q. Is he any kin to you? A. Yes, sir, he is a cou
mine.

Q. You say you were connected with Kirk—what offi
you fill? A. I was appointed recruiting officer.

Q. You were one of the recruiting officers? A. Yes,
was appointed by the general.

Q. General who? A. General Stoneman—no—G
Amons, I believe.

Q. Didn't you know that Kirk's regiment was not a r
regiment in the federal service? A. No, sir, I did not
any such thing.

Q. Didn't you know that it was an outside force? A
sir, it was recognized as a federal regiment by all the a
ities.

Q. What sort of services did they perform? A. They performed such services as were performed by the troops——

Mr. BOYDEN. I object to this. Where is this to end?

Q. What sort of service was it?

The CHIEF JUSTICE. The presiding officer thinks that is going too far.

Q. Did you know Kirk's reputation before the war? A. No, sir, I knew nothing about it.

Q. You say that his reputation is good, and is recognized as such by a majority of the people in Madison and Buncombe counties? A. Yes, sir.

THOMAS J. FOSTER, ¶ *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. State your residence, and any office you may hold? A. I live in Caswell county, near Yanceyville, and am thirty-four years old.

Q. Are you a magistrate? A. Yes, sir.

Q. State any instances of any outrages that have come within your knowledge in the years 1869 and 1870 in that county, giving the dates and character of them? A. In 1870, James M. Jones was outraged.

Q. [By Mr. GRAHAM.] How do you know? A. He showed me his wounds.

Q. State all you know about it? A. Some time in March, just before the spring term of the court, I met up with him and he was telling me ——

Mr. GRAHAM. You are not to speak of the conversation with him.

Q. [By the Chief Justice.] You may speak of any marks—did he show you marks? A. Yes, sir, he showed me the marks. He seemed to be very severely whipped across the small portion of his back and abdomen.

Q. Were there any bruises on him? A. Yes, sir, there was

one bruise on the small portion of his back, nearly as l
my hand.

Q. How was it on his abdomen? A. They seeme
stripes with switches. The bruises were something
as my finger.

Q. What was the extent of his inquiries—were they s
A. Yes, sir, they seemed to affect him very much. H
plained considerably of his back paining him, and a s
of the sides.

Q. Did he complain to you as a justice of the peac
Yes, sir, yet I saw no chance of bringing ——

Q. What did you do after this complaint?

Q. [By Mr. Graham.] Did he make an affidavit?
sir, only verbal.

Mr. GRAHAM. I do not think any other stater
proper.

Mr. BADGER. I think his statement is competent.

The CHIEF JUSTICE. He made a verbal statemer
the witness say?

The WITNESS. Yes, sir, he told me the circumstanc
then I saw no chance of issuing any process.

Q. Why did you see no chance? A. In fact I did
any use of it. I did't know whom to issue it against.

Q. Why didn't you know? A. He didn't tell me
was. I don't suppose he knew at the time.

Q. State whether or not you ever applied to the c
sioners for an office, and what resulted from it afterward
In the fall of 1868 I was appointed justice of the peace
governor of the state. I accepted, and that fall, wh
general assembly met there about that time, I applied
commissioners for a room to do some business in at Y
ville, and I lived about four miles west of Yanceyvill
replied to me that he would not let me have the room -

Q. I don't care anything about that, just state wha
pened. You did not get a room. What did you do?
Stevens was present, and told me I could have his hous

Mr. GRAHAM. I don't see how this is competent.

Mr. BADGER. We will connect it in a few minutes. Whenever I ask the witness questions that are leading, I am halted on that ground, and when I ask a general question I am halted because the pertinency does not appear in the very beginning. But in a few moments the pertinency of this question will be seen.

Mr. MERRIMON. Will you suggest the pertinency of it.

Mr. BADGER. It is pertinent in this view, that Stevens surrendered a room in his house to the witness, and after he assumed his office as magistrate frequent applications were made to him by colored people who had been abused; and in consequence of certain outrages committed upon him ——

Mr. GRAHAM. We object to any conversations with the commissioners or other persons not connected with this matter. I do not see their relevancy.

The CHIEF JUSTICE. The presiding officer does not see how such conversations can be admitted.

Mr. BADGER. I do not want the conversation at all.

Q. You got an office at Stevens' house? A. Yes, sir.

Q. Who else was in there besides you? A. No one but myself.

Q. What happened while you were in there? What were you in there for—what did they do? A. I had been doing business that day, and I had a good deal to straighten out after dark. I was sitting there straightening out my books, and there were a couple of shots fired over the house—balls. I heard them whistle by just over the house, but as to who it was I could not say.

Q. You don't know who it was? A. No, sir.

Q. The house was fired at? A. Yes, sir, or shot over—they shot over the house.

Q. You said that was in the night? A. Yes, sir, that was in the night.

Q. Go on, and state anything else in regard to matters up there? A. At that time there were a great many colored

people applying to me for redress of grievances—tha had been turned out of house, and had no place to go t seemed to be very much distressed. That was just —

Mr. GRAHAM. You need not tell what anybody you. You have been told not to do so two or three time

Q. Did you go to see Governor Holden at any time he declared the county in insurrection? A. Yes, sir. here in 1870.

Q. What complaint did you make to him—what did y to him? A. I stated to him that I was on my way fro county; I was going to leave the county if there was not thing done, some protection to the citizens; that I co stand it any longer.

Q. What did you tell him was the condition of the there? A. I told him that there were outrages committ

Q. What else did you tell him—anything about the of the outrages? A. Yes, sir, I think, as well as I recol told him something about several that had been com previous to that time.

Q. Did you tell him anything about the feeling in the of terror or otherwise? A. I think I did.

Q. What did you tell him it was? A. I told him it feeling of terror, and that if there was not some protectio others—something of that kind—would have to lea county.

Q. What was it you feared? A. Well, there was Mr. case ——

Q. What was it you feared? A. Well, what was su to be the Kuklux.

Q. What—that they would do damage to you or injur outrage you, or what? A. I feared that I was unsafe in and property.

Q. Did you attend a meeting of magistrates of that co republican magistrates? A. Yes, sir.

Q. Tell what was done there? A. I think as wel recollect that there were four of us that met.

Mr. GRAHAM. I don't see how it is competent.

Mr. BADGER. The republican magistrates met, and drew up an address to the governor. I want to introduce that to show that they made representations of the condition of things in the county—that the address was sent to the governor requesting the inteposition of some outside force.

Mr. MERRIMON. Can you produce that paper.

M. BADGER. The paper is lost.

Mr. MERRIMON. Did it ever reach the governor.

Mr. BADGER. I don't know.

Mr. GRAHAM. We object to that, sir.

The CHIEF JUSTICE. The presiding officer does not understand. What became of the paper?

Mr. BADGER. The paper was lost or destroyed. I do not know whether it ever reached the governor or not. I introduce this witness to prove that. I wanted to suggest the question, and see whether it was deemed proper. I thought myself that it was proper as a means of showing the condition of the county to prove that these magistrates met together and conferred with regard to the various complaints that had been made before them respectively as to the condition of the county. I do not suppose that in an ordinary trial it would be evidence; but in a trial of this kind it seems to me it would be proper.

Mr. MERRIMON. You do not propose to show that it came to the governor.

Mr. BADGER. No, I do not know that it came to the governor at all.

Mr. GRAHAM. It is hearsay.

Mr. BADGER. It is hearsay there is no doubt about that, but it is a peculiar kind of hearsay.

The CHIEF JUSTICE. It would hardly be competent proof unless this witness told the governor about it.

By Mr. BADGER, [resuming.]

Q. Did you communicate to the governor the fact that that

paper had been sent, or that meeting had been held
forget whether I did or not, it seems to me that I did.

Q. What is your best recollection that you commu
to the governor?

Mr. BRAGG. Communicated what?

Mr. BADGER. The fact of that meeting, and wh
place in it, before they sent the paper to him.

Mr. BRAGG. I do not understand the witness to
at all.

A. It seems to me there was something said about i
would not be positive.

Q. Will you state what the feeling was between
races in that county? A. It seemed to be pretty bitt

Q. Between the white republicans and the democrat
Pretty bitter, sir.

Q. Do you know of any other outrages in the co
your own knowledge? A. No, sir, only this fellow J
mack—he stated to me ——

Mr. GRAHAM. Do not state the conversation.

Q. Never mind what he stated. Did he show y
wounds on him? A. No, sir, I cannot say that he di
had already been before a magistrate.

[A paper was here produced by the witness at the re
counsel, and an examination took place in regard to it,
was subsequently, after debate ruled to be irrelevant th
the testimony and the discussion thereon were ordere
stricken out from the record.

*Cross-Examination.*

By Mr. MERRIMON:

Q. How are the parties divided in your county? A
it is republican, democrat and conservative.

Q. But how as to the relative numbers? A. I thin
is a majority of republicans.

Q. What sort of majority? A. I never have been
learn the majority.

Q. Several hundred? A. Yes, sir, I think there we

Q. You speak of your terror—what was ever done to you? A. As I stated, I had a couple of shots fired over the house.

Q. What time in the night was it? A. That was some 10 or 11 or 12 o'clock, I reckon.

Q. Was that all that occasioned terror to you? A. Well, that was all directly.

Q. They went over the top of the house? A. Yes, sir.

Q. Who fired them you do not know? A. Do not know.

Q. Did you ever see any Kuklux there? A. Never.

Q. State whether you had any connection with the confederate army? A. I did sir.

Q. When did you enter that army?

Mr. BOYDEN. I object to that.

The CHIEF JUSTICE. On what grounds?

Mr. BOYDEN. Because it is totally ierelevant.

The CHIEF JUSTICE. The presiding officer thinks that on cross-examination it is relevant to show the bias of feeling of the witness.

Q. When? A. It was in 1862, I think—the spring of 1862 that I went out.

Q. How did you go out? A. I went out as a volunteer.

Q. In whose company? A. Captain Reinhardt's.

Q. How did you get out of the army? A. I went out of it.

Q. How? I was a refugee.

Q. Did you get an honorable discharge? A. Well, I considered it such at the time.

Q. You were discharged? A. No, sir, I was a refugee through the lines. There was nothing here to desert, no established flag in the country.

Q. Just answer my question, whether you deserted the confederate army? A. Well, I could not say it was deserting.

Q. Did you go without authority? A. I went without authority.

Q. I ask you whether you met captain Fields commanding a company of federal troops at Danville, on their way to Caswell? A. I did, sir.

Q. I ask you whether you said in Captain Fields' p when you first met him that you could have every b house in Caswell burnt? A. I don't recollect telling hi I recollect telling him that the people were so enrag they would want but little persuasion to do it.

Q. I ask you if you did not tell captain Fields that yo have every barn and house in Caswell burnt? A. I d collect telling it.

Q. Do you say you did not say it? A. I don't think

Q. I don't want any "think" about it. I want you yes, or no? A. No, sir, I did not say it.

Q. I ask you whether you asked captain Fields whether he had stated the fact afterwards in the prese lieutenant Cranston and captain Frank Smith of the States army? A. Yes, sir, I think I did.

Q. Did he tell you then that you said it, in the pres those gentlemen? A. Well, he told me, as well as I re at that time, that he inferred, from what I said, that I c that he inferred from the expression I made that I could told it in that way at Yanceyville.

Q. Didn't he tell you that you had told him when I you at Danville that you could have every house and b Caswell burnt at a word? Didn't he tell you that presence of these gentlemens? A. I think he did t something to that amount. The reason I went to him w I had heard that he said I meant to burn them, and I w have it rectified.

Q. He told you that you said you could have it done wished at a word? A. I would not be sure, but it seems that he did.

Q. I ask you if he did not reprove you for that, and t that he went there on public service, and not in your in or anybody else's? A. Yes, sir, he remarked to me was very easy to infer from what I said that I intended t up Caswell county, and I told him I was sorry such a rem

that had got out. I did not like that—I have been raised differently from all such things as that.

Q. I ask you now if you did not advise the colored people there to burn barns? A. I did not.

Q. Will you swear that? A. I will.

Q. That you never did on any occasion? A. On any occasion.

Q. Did you ever discuss it in leagues with them? A. Never.

Q. Do you belong to the Leagues? A. I did, sir.

Q. When? A. In 1869 I think I joined, as well as I recollect.

Q. What time in 1869? A. I don't recollect exactly whether it was in the fall or spring.

Q. Do you know that the barns were burnt? A. I heard of it; I don't know.

Q. How many? A. I don't know that. I heard it.

Mr. BADGER. I object to that.

The CHIEF JUSTICE. He cannot speak of it unless he knows it.

Q. Do you know that James D. Johnson's barn was burnt at Yanceyville? A. Not that I know of.

Q. Did you see it burning? A. No, sir.

Q. Don't you know that it is gone? A. No, sir, I don't know, for I never went near the place; in fact I was not acquainted with the position of the places

WILLIAM H. STEPHENS, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. What relation are you to the Stephens who was murdered in the court-house? A. A brother.

Q. State in your own way all you know about that and what steps you took towards discovering the murderer? A. I went to the court house on Saturday morning about eleven o'clock, to attend a democratic county convention. I remained there until they adjourned for dinner and went home. I went back

in the evening about two o'clock. My brother was t

Q. What was he doing there? A. He was at meeting taking notes of some of the speeches that w

Q. Did you see him when he left? A. Yes, sir.

Q. Who was speaking at the time he left? A. C I think.

Q. Col. Bedford Brown? A. Yes, sir, I saw h with Mr. Wiley.

Q. Did he come back into the meeting again? not. I went out about twenty minutes afterwards. see him anywhere.

Q. Did you look for him? A. No, sir, I did n him just then. I looked around the streets to see see him on the streets but I did not. I went off up then to a house near home—Mr. Groom's house.

Q. What time did he leave the meeting—what tir A. I think it was about four o'clock, perhaps twen after.

Q. What time in the year was it—what date? A day of May.

Q. Go on and tell your tale. A. I went to Mr and remained there until about five o'clock. I hear on the court house strike five, and I then went over t directly after that. His wife was alarmed by his r home. He had promised to be at home about fo She was somewhat uneasy. I told her I did not thinl any necessity for being uneasy just then, that I s was on some business, that I saw him with Mr. W had already sent a boy to look for him. I remai awhile and concluded I would go myself then. Sh be so much uneasy I went up the street and looked

Q. About what time in the day did you get ther was about sundown then. I could not see anything asked several people standing about there where he said they had not seen him since the meeting adjour I turned and went back to Mr. Groom's, to where

was—a younger brother. I told him that there was something very suspicious about him, that he must go and look. We went then together to the court house. We went up to the court house, went around the rear of the court house to the other corner of the square to Mr. Neal and Johnson's store. I advised with Mr. Neal what to do. I told him my brother was missing. It was dark. He didn't ——

Mr. MERRIMON. Don't state what anybody said to you; just tell what you saw.

Q. Did you make any inquiries for him? A. Yes, sir, we inquired of Mr. Neal and of others if they had seen anything of him, and we concluded then to see Dr. Roane. My brother and John E. Cook, the magistrate, went to him to get the keys of the court house, and he sent and got the keys from the register's office.

Q. That is your living brother? A. Yes, sir, a younger brother than me. We searched the court house as well as we could in several rooms. We went up in the court room and searched there thoroughly. We went then down to the lower floor and looked into two or three rooms below. We went to this room, the clerk and master's room. I knocked on the door but it hadn't been occupied for sometime and I asked Doctor Roane where the key was to that door, and he remarked that the door hadn't been opened for sometime although he told me he would send and get the key and we could look in there. He sent his son Robert to look for the key and he could not find it, and then we concluded to look into the windows from the outside. We got a candle and Mr. Roane examined this clerk and master's room, through the window, and said he could not see anything only a pile of wood. He could not discover anything in there, it was dark. He had a candle looking in from the outside and he could not tell much that was in there. He could see some wood he thought. Well, we stopped the search there pretty soon after that, and my brother thought it was best to remain in the court house that night which we did. Several colored men were about there and we all watched

the court house during the night. There were some t
or thirty I guess.

Q. State whether or not you put a cordon of guards all
so as to watch it? A. Yes, sir.

Q. [By Mr. Manager SPARROW.] Did he rais
window when he looked in? A. No, sir.

Q. Just put the light to the window? A. Yes, sir, I
there was something said about raising the window, but I
Roane spoke and said they kept them generally fastene
stick.

Q. When did you discover your brother's body? A
next morning, directly after light, George Bowe first disc
him.

Q. A colored man? A. Yes, sir.

Q. How did he discover it? A. Through the windo
could just see his head on the wood.

Q. What position was he in—in the room? A. Well,
had been some wood put in there and cut up about three
feet along for a fire-place, and was piled across the north
the room. There seemed to be a gap in the room. H
sitting in the gap in the wood, and his head was throwi
into the wood.

Q. Did you notice the rope around his neck? A. Y

Q. State what condition it was in? A. The rope was
very tight around his neck—buried in the neck.

Q. Was your brother a thin person? A. Yes, sir.

Q. As thin as yourself? A. Yes, sir,—well, he was
my weight, he might have been a little heavier.

Q. State what you saw of blood? A. Well, there wa
smart of blood in there on the wood and trash—the c
and on the wall.

Q. How did that on the wall appear to be there—from
of blood? A. Yes, sir; it looked as though it jetted the

Q. And that on the floor? A. Yes, sir.

Mr. MERRIMON. I beg to suggest, Mr. Chief J
that the attempt was made to go into the details of this

action on a former occasion in the cross-examination of witnesses produced by the prosecution. It was then decided that the senate did not care about the details. What they wanted to know was that this offence had been perpetrated. How long it would take to go into these details I cannot tell. I dislike to raise this objection because this witness is the brother of the deceased, but I think it due that I should.

The CHIEF JUSTICE. It is objectionable in the judgment of the presiding officer.

Mr. BADGER. The only object I had view was this: there has been some attempt by the prosecution—in fact I think it was stated by one of their witnesses—to create a suspicion that it was done by the colored people themselves. I was merely going into these details to show the interest they felt in the man, and evinced by the efforts they made to discover his body.

The CHIEF JUSTICE. I don't think it is well to consume the time of the senate by going into the details of that matter.

Q. Do you know who was the clerk or secretary of that democratic meeting? A. I don't remember.

Q. Do you know of any outrages having been committed in the county other than the one you have related—the murder of your brother? A. I saw two colored men's wounds.

Q. Who were they? A. Their names were Samuel Patterson and Jo. Womack.

Q. Where is Samuel Patterson now, do you know? A. He is at Danville, Virginia.

Q. Where is Jo. Womack? A. I understood he went to Tennessee.

Q. What was the extent of the whipping that Jo. Womack received? A. It was a very severe whipping I considered.

Q. How about Sam Patterson? A. I don't think he was whipped so bad.

Q. Do you know anything about this whipping that Jones

got? A. Yes, sir, I saw Mr. Jones. He seemed to be b
whipped.

Q. When were these whippings—during what time?
think they were in the spring of 1870, in March or Apri
am not certain.

Q. In March or April, 1870? A. Yes, sir.

Q. Before your brother was killed? A. Yes, sir. I
these negroes at his house.

Q. You saw these negroes at your brother's house?
Yes, sir.

Q. What were they there for? A. They came ther
order to get out warrants.

Mr. GRAHAM. I do not know that it is competen
speak of their conversations.

Mr. BADGER. I don't ask anything about conversati
I ask what they were there for.

Mr. GRAHAM. But that is the result of their conv
tions.

The CHIEF JUSTICE. It is proper for the witnes
state that they came there and made some application.

Mr. BADGER. I don't suppose they could make an a
cation without using some language or other.

Q. What else do you know with regard to the other port
of that county? A. I don't know of any other outrages
sonally.

Q. You have no personal knowledge of any? A. No, s

Q. Did you see any others upon whom outrages had b
committed—I mean did you see wounds upon any other
ple? A. No, sir, I did not see wounds on them.

Q. What was the state of feeling between the two partie
that county? A. Well, I considered it pretty bad in
spring of 1870.

Q. Has there ever been any punishment by the courts
any of those crimes? A. None that I know of.

*Cross-Examination.*

By Mr. GRAHAM:

Q. Was John W. Stevens's life insured at the time of his death? A. Yes, sir, previous to that.

Q. In what amount? A. $10,000.

Q. You say that as early as five o'clock in the evening Mrs. Stevens had sent out somebody to look for him? A. Yes, sir.

Q. Two hours before sun set? A. It was before night. I cannot say it was five o'clock, but it was before sun down.

Q. The days were near equal length then? A. Yes, sir.

Q. You heard the clock strike five at the time you went to the house? A. Yes, sir, before I went to the house. I was at Mr. Groom's, on the adjoining lot.

Q. And when you arrived there she suggested that he was to be home at five o'clock. A. At four.

Q. Did you live in the same house? A. Yes, sir.

Q. You said you went to the room that night where his body was found the next morning, why did you not force the door of that room? A. It was the suggestion of Doctor Roane that it had not been opened.

Q. He did not have the key himself? A. No, sir, he was the commissioner. He was one of the board of commissioners.

Q. Was it not suggested that somebody had had the key to get wood that night? A. There was nothing said about it that night.

Q. There was nothing said in your presence about it that night? A. No, sir.

Q. What was said in reference to putting a guard around the court house? A. I suspected that he had been murdered in the house.

Q. What part of it—you had examined every part except this room? A. No, sir, there were several lawyer's offices that we did not examine.

Q. You staid with the view of keeping watch and seeing whether anybody come in or out? A. Yes, sir.

Q. Who was it made the examination of the room that night with a candle? A. Mr. Groom.

Q. What place does he occupy there—what public offic
A. None.

Q. He was not the same person who had a public office i
Rockingham? A. No, sir, he is a brother.

Q. He got up with a candle to the window and looked i
to see what could be discovered and he stated he discover
nothing? A. No, sir.

Q. Who was it looked in the next morning? A. A color
man named George Bowe.

Q. Is he a pretty prominent politician on the republic
side? A. No, I don't think he is.

Mr. BOYDEN. I don't see the object of an enquiry
reference to Bowe. He has not been examined as a witness.

Mr. GRAHAM. I know that he has not been examine
but I desire to show that he might have had a motive for ha
ing the seat of Mr. Stevens vacated.

Mr. BADGER. I desire to know, Mr. Chief Justice, if th
the counsel are not going into the details in reference to M
Stevens' murder, to which they raised an objection when w
proposed to do it.

The CHIEF JUSTICE. On these collateral facts you ca
not go into particulars.

Mr. GRAHAM. I simply desire the fact to appear that th
person who discovered Mr. Stevens' body lying in the roo
was, as I understand it, a person of some political aspiration
and perhaps desired to fill Stevens' place in the senate.

The CHIEF JUSTICE. I think that is too remote.

Mr. GRAHAM. I will not press it further.

Q. You say there was an investigation before the coroner
A. Yes, sir.

Q. Did you speak to Mr. Samuel P. Hill to prosecute an
endeavor to ascertain who killed your brother? A. Yes, si

Q. You were present at the whole investigation were you
A. Yes, sir.

Q. Mr. Hill acted as the counsel for the family in endeavo

ing to discover the perpetrator of the deed? A. Yes, sir, he did.

Q. Mr. Hill was one of the first persons who was arrested by Kirk on his arrival? A. Yes, sir, he was one of the first crowd.

Q. Was the investigation fairly conducted—were there not some twenty different witnesses examined? A. Yes, sir.

Q. Did you publish this card after the investigation took place to the public—I mean the part of it in small print on this printed page?

Mr. SMITH. I submit Mr. Chief Justice that the witness has a right to be shown the original paper.

Mr. GRAHAM. It is all in print. I simply ask him if he recognizes it as being the same card which he published. He probably can recollect.

The CHIEF JUSTICE. That would come under the ruling of the court which has heretofore been made.

A. [After looking at the paper] I recollect signing a paper something similar to that.

Q. Is it not exactly of the import of the one you signed—you have seen the pamphlet which Mr. Stedman published from which this was taken. Is not that the substance of the card which you published? A. I think it is.

Mr. GRAHAM. I would like the clerk to read the document in evidence.

The CLERK proceeded to read the paper identified by the witness in the following words:

"YANCEYVILLE, N. C., June 2nd, 1870.

"In view of the excited state of the public feeling growing "out of the late murder of our brother, J. W. STEPHENS, we "deem it proper, with a view to its publication, to make the "following statement in reference to the circumstances con- "nected with this sad affair. A jury of inquest was em- "paneled on Saturday morning, shortly after the dead body "was discovered, and were not discharged until the following "Thursday afternoon. A large number of witnesses both

"white and colored, were examined, which gave no clue to t
"perpetrator of this horrible deed. The officers of the l
"and the citizens of this community exhibited throughou
"commendable zeal in endeavoring to ferret out the gui
"party. Certain prominent individuals were at one time t
"suspected of having some agency in the murder, the evide
"however elicited during the examination, satisfied us beyo
"a doubt of their innocence. We feel it to be our duty
"state further, that from the evidence adduced during the
"vestigation that we have not the slightest ground to susp
"any citizen of this community of having any agency in t
"perpetration of this crime.

Signed, "W. H. STEPHENS,
"T. M. STEPHENS."

Q. You say you saw James M. Jones? A. Yes, sir.

Q. What has become of him? A. He lives in Virgi now, I think.

Q. Do you know that Mr. Solicitor Bulla endeavored to Mr. Jones before the grand jury to make a complaint, or if had any to make?

Mr. BADGER. You will speak of your own knowledge.

A. No, sir.

Q. You don't know of his coming before the grand jur A. No, sir.

Q. What you know about it was the conversation he h with your brother? A. John, do you mean?

Q. Yes, sir? A. Yes, sir, and myself.

Q. Were you present at the same interview? A. Yes, s

Q. At the time he was making a complaint to your brothe A. Yes, sir.

Q. In relation to Womack, he went off with Kirk's me A. I do not know—he is gone.

Q. Didn't he disappear about that time? A. Yes, sir. Aft the supreme court adjourned here last summer. I saw hi here.

Q. Kirk's men did not go off until after this investigation? A. I don't remember what time he went off.

Q. They did not leave Yanceyville until sometime in September, did they? A. No, sir, I don't think they did.

Q. As to the other man Patterson, you say he lives in Danville? A. Yes, sir.

Q. Danville is a mile or two from the Caswell line? A. Four or five miles, I believe.

Q. It is the chief market town of that part of the country? A. Yes, sir.

Q. A great many men seek employment at the warehouses and business of that sort there? A. Yes, sir.

Q. The intercouse between Yanceyville and Danville is constant? A. Yes, sir.

*Re-Direct-Examination.*

By Mr. BADGER:

Q. Who wrote that card for you and your brother to sign? A. John Kerr, I think.

Q. How came you to sign it? A. If you will allow me to explain I will state.

Q. I want you to state how you came to sign it? A. My brother before this had been signed, and myself had concluded not to sign anything at all. We went on the street this day, as well as I can recollect, and we met Dr. Roane and John Kerr, and they called us into the back room of a stoore and showed us a letter they got from Mr. Booker, a member of congress from Virginia, which they showed us, and that letter seemed to censure the citizens with these outrages very strongly. They said they wanted to relieve themselves in any way they could, and they showed this letter that had been drawn up. We told them we could not sign it.

Q. Was the letter drawn up at that time? A. Yes, air. They insisted upon us signing it. We made them make an alteration or two and they insisted so hard on our signing it, we concluded to sign it.

Q. Why did you sign it?

Mr. GRAHAM. The witness says he had an alter made before signing it. There can be no other reason e that avowed at the time.

Q. If you had no other reason don't state; but if you reasons do so? A. There was considerable excitement t and we thought it best for us to sign it.

Q. Why? A. We thought there would be a better fe towards us.

Q. You thought there would be a better feeling tow you? A. Yes, sir.

Q. Is the statement contained in the paper correct? don't remember.

Q. What was read just now—is that statement correct? I think the paper stated that the jury were empanneled Saturday——

Mr. GRAHAM. That is evidently a misprint.

Q. I don't mean mere matter of fact? A. I thought t was in substance.

Q. This was drawn and presented to you without consu you before hand in reference to it? A. Yes, sir.

Q. It was drawn by John Kerr? A. I found it in hands of Doctor Roane but I thought it was in Mr. K handwriting.

Q. Was John Kerr present when it was presented to A. Yes, sir.

Q. What did they tell you about signing it? A. I remember the words exactly but there was a letter they It was received from Mr. Booker which they seemed to r very much and they wanted to relieve themselves of the ch as much as possible.

Q. They wanted to relieve themselves as much as possi A. Yes, sir.

Q. Did they urge you to sign it? A. I think they they insisted upon it.

Q. State whether you lived in terror at that time in county, either before or just afterwards.

Mr. GRAHAM. I submit that that is new matter altogether.

Mr. BADGER. I will connect that with the statements in the letter.

The CHIEF JUSTICE. The presiding officer thinks that the question is competent in connection with the letter as a reason which induced the witness to sign it.

Mr. BRAGG. The question is decidedly leading, and we object to it on that ground.

The CHIEF JUSTICE. The witness can state that if it was so.

A. There had been such a state of terror that my feeling was that I would like to get from under it if possible. I thought I would relieve myself as much as possible by signing it.

Q. What do you mean by relieving yourself? A. I would be perhaps kukluxed or something, I don't know what, there was such a feeling in the country.

Q. You thought you would relieve yourself of the danger of being kukluxed by signing ii? A. I thought they would censure me more if I didn't sign it.

Q. You say you were present and heard the complaint of Jones made to your brother? A. Yes, sir.

Q. What was his complaint?

Mr. BRAGG. I submit that that is new matter.

Mr. BADGER. It was called out by the examination by the counsel for the managers.

Mr. BOYDEN. The managers asked if the witness was not present when Jones made his complaint to Mr. Stevens. I ask if it does not authorize us to call out the fact.

Mr. BADGER. My recollection is there was nothing said about the complaint in the previous examination.

Mr. BRAGG. I raised the objection and the presiding officer overruled me at the time.

*Re-Cross Examination.*

By Mr. GRAHAM:

Q. You say that Dr. Roane
themselves—did they speak of
the crime? A. No, sir.

Q. It was the community?

Q. It was the community w
imputation? A. Yes, sir.

Q. You would not sign it u
A. It was corrected ——

Mr. BOYDEN. The witn
after it was corrected.

Mr. GRAHAM. When a
take it for granted that the cor

The CHIEF JUSTICE.
think it would necessarily fo
after that he did not want to si

Q. I ask you whether thi
as now published did not expr

Mr. BOYDEN. The witn

The CHIEF JUSTICE. T
question was asked before, and
[To the witness] answer the qu

The WITNESS. I don' unde

Q. I ask you whether the c
press the truth according to y
do not know how to answer t

Q. I think it is a very plain
what you published was true o
don't know whether it was tru

Q. At the time you undert
ceive it to be true? A. No,

Q. You say, then, that you
I don't know whether it was
who to censure for this thing.

Q. That is what is in the ca
with the crime according to

made—did you intend to say that? A. I did not know who to charge—that is the reason I signed it.

Q. There was no reason to charge anybody with it in the community? A. I did not charge anybody with the knowledge of it.

Q. You did not charge them in any way outside of this publication? A. No, sir.

*Re-direct Examination.*

By Mr. BADGER:

Q. Did you not believe at the time that the act was done by the people of Caswell? A. Yes, sir, I saw nobody else there that I know of.

Q. Did you not believe it was done by people in that political meeting? A. I did.

Mr. GRAHAM. I do not think it is proper to lead the witness.

Mr. BADGER. I have nothing further to ask.

WILLIAM G. CHANDLER, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. Where do you live? A. Caswell county. I was born and raised there.

Q. How far from Yanceyville? A. Four or five miles.

Q. North or south? A. South—a sort of east course.

Q. Tell anything you know about the Kuklux or disguised men coming to your place? A. Sometime in the last of April, the last day of the month, I think it was, some came to my house and knocked at the door. I went to the door and opened it. They asked me if there was a negro in the neighborhood of the name of Samuel Patterson. I told them there was, but that he didn't live on my plantation, that he lived on another man's plantation a quarter of a mile from my house. They insisted on my going with them. I told them that I could not go, that I didn't want to get into any difficulty, but they kept on asking me to go, at last one of them said, "You shall go, just

with horns on.

Q. Go on and tell the rest? A. I went w
the way, and turned around and came back h

Q. Were they walking or riding? A. Ri

Q. How did you get away from them? A
might go back home.

Q. Did you point out the house to them?
the house—where it was.

. And you went back home? A. Yes, s

Q. Did you see anything more of them th
sir.

Q. Did you hear of them at all afterward
didn't hear from them afterwards.

Q. Did you hear any noises that night?
over there after I left, and some shooting at

Q. Where Samuel Patterson lived? A. Y

Q. You went back home again, and did'nt
of them? A. Yes, sir.

Q. Have you seen them at any other tim
A. No, sir, no other time.

*Cross-Examination.*

By Mr. MERRIMON:

Q. What part of the county was this in
part of Caswell.

Q. How far from the Person line? A. I reckon about twelve miles.

Q. How far from the Orange line? A. I reckon twenty miles.

Q. You say it is in the southern part of the county? A. The south east.

Q. Twelve miles from the Person line? A. Yes, sir, I reckon it may be more, it is twelve miles any how.

Q. When was that? A. That was in 1870.

Q. April? A. Yes Sir, April.

ARCHIBALD DOLL, [colored] *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. Where where you the day when John W. Stephens was murdered? A. I was sitting on the pump there by the court house.

Q. In Yanceyville? A. Yes, sir.

Q. State what conversation you heard between three or four men if you heard any? A. Mr. Thomas Hubbard, Logan Totten and Joe Fowler they came out and said, "Stevens is up there the damned son of a b—— taking down the speeches; he had better be praying for he will be in h—ll before night."

Q. These men were coming out of the meeting? A. Yes, sir. I was sitting on the pump.

Q. Who was with you? A. Old msn Tilman Brown. He said "Ain't that an awful speech to make." I said, "It is."

Mr. GRAHAM. You neen not speak of your conversation.

*Cross-Examination.*

By Mr. MERRIMON:

Q. When did you first tell this? A. We were just talking about that Mr. Stevens was found dead the next morning and we were talking about it.

Q. What time did you tell it? A. Sunday morning.

Q. Were you examined before the chief justice last su
A. No, sir.

Q. Why were you not? A. They never summoned

Q. Did they have you before the jury of inquest w
on Mr. Stevens' body? A. No, sir.

Q. Why did they not have you there? A. I do no

Q. Have you been whipped for stealing? A. No, si

Q. Have you been whipped by the court? A. No, s

Q. Are you a gambler? A. Yes, sir.

Q. A professional gambler? A. Yes, sir.

Q. Were you there the day the jury was sitting?
the court house, do you mean?

Q. Yes, sir, or on the street? A. No, sir.

Q. Where were you? A. I was playing cards dow
woods.

Q. Why did you not tell Mr. Hill or some of Mr. S
family about this matter? A. Mr. Hill or Mr. Steven
asked me anything about it. I was just talking about

Q. You never told them? A. I do not know—
talking——

Q. Didn't you know they were trying their best to fi
A. I suppose they did, but they didn't ask me about it.

Q. Why didn't you tell them? A. I didn't have
business to tell them to get myself in trouble about it.

Q. Who did you tell? A. Three or four.

Q. Who? A. I don't know exactly. I was talkin
old man Tilman Brown.

Q. Who is he? A. He is here.

Q. You didn't tell Mr. Hill nor Mr. Stevens nor
else? A. No, sir. I didn't tell Mr. Hill about it.

Q. Why did you not tell Mr. Kirk when he was the
I never spoke to him and he never spoke to me.

Q. Why did you not tell somebody else what you kn
have an affidavit made, and bring these men before a j
A. I just told it about town, but it was not my busines
anybody.

Q. How did you come to tell it at last? A. I suppose it got out from one to another by talking it about town.

Q. How many have you told it to since you came down here? A. I have not said anything about it for some time.

Q. How 'ong before, and to whom did you talk about it before you came to this trial? A. I cannot say particularly who I talked to about it. I was talking it down town among them. They all knew it.

Q. Didn't Mr. Watt ask you what you were coming down here for, and didn't you say you didn't know anything about the matter? A. I did not because I was working on the bridge, and he came and said "You have got to go to Raleigh." I said "For what," he said "I don't know." I said "I had got nothing to go to Raleigh for."

Q. Didn't you tell him you didn't know anything? A. I did tell him so. I told him that I didn't know what they wanted me for.

*Re-direct Examination.*

By Mr. BADGER:

Q. You didn't busy yourself by telling what you know. Why did you not busy yourself? A. I thought that this republican party was all coming; they had got Stevens out of the way, and they would rule us. I knew if they had got him out of the way and killed him I didn't know what they might do to me.

TILMAN BROWN, *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. Where were you on the day Mr. Stevens is said to have been murdered and what did you hear? A. I was in my shop at work.

Q. All day? A. No, sir, I was backwards and forwards. Sometimes I would go in the square to see what I could hear, while I was not busy. I was standing there by the pump and Thomas Hubbard came down ——

Q. Who was with you at the pump? A. Arch Doll. I sitting on the pump with a pair of horse shoes in one hand some nails in the other when he came along there and said

Q. Who was with him? A. Logan Tatten, Joe Fowler Thomas Hubbard. He is the man who spoke. He "Stevens is taking down speeches, but he had a damned better be praying, for he will be in hell before night," ar broke into a laugh.

*Cross-Examination.*

By Mr. MERRIMON:

Q. What time of day was that? A. The bell had not for the speaking. It was in the afternoon.

Q. The bell had not rung for the speaking? A. He ha come out of the court house.

Q. They said he was up there talking? A. No, sir: said Mr. Stevens was taking down the speeches.

Q. These men said he was up there taking down speec A. Yes, sir.

Q. Was that before the speaking had begun? A. No It was afternoon when the speaking was going on. They then speaking and I was listening.

Q. What time was it? A. It was in the afternoon afte speaking commenced.

Q. You said the bell had not rung? A. If I did I ma mistake, for I was standing there listening.

Q. Why did you not tell Mr. Hill or some of Mr. Ste family about it? A. I told his brother about it. I told the next day after he was found.

Q. Did they not have you summoned before the jury? No sir, they did not.

Q. Did they have you summoned before the chief just A. Nothing until this. I told all the people around.

Q. Tell some one whom you told? A. I told Henry Gr

Q. Is he a colored man? A. No, sir, a white man. I Mr. Jim Gunn, the master I lived with, and I told most e

man I talked with about it who came to the shop what these men said.

Q. And you were not summoned before the jury there? A. No, sir.

Q. And you were not summoned before the chief justice? A. No, sir.

Q. Which Stevens did you tell this to? A. Heny Stevens.

Q. Have you ever been indicted in court for stealing? A. No, I was not.

Q. Were you not indicted before Judge Tourgee for stealing? A. No, sir, I went through a corn field and I took two or three roasting ears. The field belonged to a man who owed me $15 and would not pay me and I thought I would get my pay some way.

Q. Did they convict you? A. Yes, sir.

Q. Did they fine you and make you pay? A. I believe I paid three or four dollars for it.

Q. Did you not tell Oolonel Withers that you did not know what you were summoned for? A. I do not know what they were going to question me about.

Q. Did you not know what they had summoned you about? A. I didn't know what it was about.

Q. Did you tell him you did not know? A. I told him I did not know what they had summoned me for.

Q. Did you tell him you did not know any thing about it? A. No, sir, I told him I did not know what case they had summoned me on.

Q. Did you not tell him that you did not know anything about the matter? A. I said I did not know what I was summoned here for.

Q. You didn't tell him you didn't know anything about the matter? A. No, sir, I did not.

Q. You are sure of that? A. Yes, sir, I am sure.

Q. That conversation was here in town? A. Yes, sir.

*Re-Direct Examination.*

By Mr. Badger:

Q. What was Mr. Withers examining you
go to him to be examined? A. No, sir.

Q. Did he come to you? A. Yes, sir.

Q. Where were you? A. I was standing
tween here and ——

Q. What did he say to you? A. He only as
was going home and if I had been examined,
He said, "what are you here for." I told him
what case I was on.

Q. Is that all the conversation? A. Yes, sir.

DAVID JOHNSON, [colored] *a witness calle*
*the respondent, being duly sworn, testified as*

By Mr. BADGER:

Q. State what position or office you hold in C
A. I was a magistrate.

Q. Where abouts do you live? A. I live at
well county.

Q. What is your age? A. Thirty-six.

Q. How long have you been a magistrate?
pointed in 1868, I think, and I think I held
year, 1869, when I was elected, and I have held

Q. You are still a magistrate now? A. Yes,

Q. And have you been a magistrate all the ti
sir.

Q. State anything you know in regard to
coming to your house, when it was and all abou
the 19th of February, 1870, I was aroused from
came to my house and rapped against the house
"halloa, who lives here." I turned over—I
and I told them Squire Johnson. Their reply
David and open the door." I asked them wh
He replied, no matter who it was but for me to g
the door. I told them I could not open the
knew who it was. He kept on asking me and t

that I got out and I just cracked the door so as to peep out and there was such a sight in the yard ——

Q. What was the sight? A. A parcel of men disguised with caps on their heads—I could not notice particular and I fastened the door and they shot through it.

Q. How many were there of them. A. I can't tell you until I get to that point. They commenced shooting and told me if I did not open the door they would tear it down.

Q. How many times did they shoot? A. Five times I judge, by the holes in the door. I saw they were about to tear down the door and so I got up myself and opened it. They were all standing in the yard and they asked me why I did not open the door at first. I told them that I was afraid. They asked me if I was afraid now. I told them that I was not as afraid now as I was before. I had got pretty well the idea that I was going to die. They asked me if I was a radical. I told them no, I was a republican. They replied, saying to me that I had better mind for they were putting up all the radicals.

Q. Putting them up? A. Yes, sir. They asked me how I had administered the law. I told them I administered it very well as far as I knew. They told me to come out for they wanted to see me outside the door and come around the house with them. I followed them around the house and I saw their horses tied there to the fence. I shook hands with all of them and there was an even forty. They told me "good bye" and probably they would visit me again. They all gave me a shake of the hand, and I have never seen them since.

Q. Did they tell you what they were going to visit you for or when they might visit you again? A. No, sir, they did not tell me.

Q. In what direction did they go? A. They went towards Leasburg, towards the town. I lived at that time about a mile from the town.

Q. You did not see anything more of them? A. No, sir.

Q. Do you know anything about any outrages being com-

mitted in your part of the county? A. Not o
knowledge.

Q. State what was the feeling between the two r
county of Caswell? A. It seemed to me it was
that time.

Q. Did you ever make complaint to the goven
state of things there? A. Not as I recollect.

Q. Did you talk to the governor about it? A.
have not seen him.

Q. Was any complaint made to you as a mag
persons who had been Kukluxed? A. No, sir.

*Cross-Examination.*

By Mr. MERRIMON:

Q. You and the white folks in that neighborhood
very well together—you are all friendly? A. Only

Q. You did not have any difficulty with the w
there? A. My motive for saying that it was pretty b
time was because every white person I spoke to said
to have opened my door. I did not think it was
to do so. It seems to me that there was a pretty b

Q. Don't you and the white people get along
together through that neighborhood? A. I got along
well with them.

Q. You had no spite at them? A. No, sir.

Q. Had they anything against you? A. I cannot
I don't know.

Q. Do you know any man in the neighborhood wh
spite against you? A. It was my opinion that when
through my house it looked like their having right
spite.

Q. You don't know who they were. A. No, sir,
not tell.

Q. How far were you from the county line? A.
mile and a half.

Q. Don't you know that the white people general

county of Caswell employ the colored people on their farms? A. Yes, sir.

Q. Also in their houses as domestic servants? A. Yes, sir.

Q. Weren't the black people generally employed by the white people all over Caswell county? A. As far as I know.

Q. Don't you know a great many colored people leased land of white people and worked it as paid rent? A. Yes, sir.

Q. You know that? A. I know some did.

Q. This feeling you speak of is a political feeling—in politics? A. More or less.

Q. The people are about equally divided in politics? A. I suppose they are.

Q. One party is about as strong as the other—how is that? A. I suppose it is.

*Re-Direct Examination.*

By Mr. BADGER:

Q. What do you say the people advised you to do about opening the door? A. They said I ought to have opened it. I went down to see Mr. Malone Sunday morning—he is the other magistrate and a white man, and he said they knocked at his house and he got up and opened the door; and they went to several other people's houses and they opened the door, that they weren't afraid.

Q. They advised you to open your door? A. He said that if I had opened it they wouldn't have shot through the house.

JOHN E. COOK, (colored) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. Where did you live in 1869, at the time of Mr. Stevens murder? A. Caswell county.

Q. What part of it? A. At the county seat—Yanceyville.

Q. What position do you hold? A. I am a magistrate—justice of the peace.

Q. State whether persons ever stuck up notices at your gate at any time and if so when it was.

Mr. MERRIMON. Where is the notice, have you go
not why not?

The WITNESS. It was put up on the gate—put with
lage or something of that kind and I went and tried to
off but I could only get it off in pieces. It was torn in p

Q. You could not get it off the post? A. No, sir.

Q. When was that? A. In the spring of 1870.

Q. What was the notice? A. As well as I remem
read in this way, "Mr. Cook beware. Take care of your
or we shall have it before you leave the county for we are
klux and sworn."

Q. Is that about the language? A. That is about the
guage.

Q. State whether or not the sheriff of the county ev
fused to execute a process delivered by you to him?
think he did once.

Q. When was that? A. That was in November 18
think.

Q. Why did he refuse? A. He said I was not a legal
istrate.

Q. [By Mr. Graham.] State all the circumstances
A colored man applied for a warrant against another col
man for stealing a hog. I made out the papers and ha
them to the sheriff; he was standing at Mr. James He
son's door in Yanceyville. He said he was not going
bothered with it because I was not a legal magistrat
said you seem to be very candid about it. He said ye
said I would not like to do anything but be right about it.
said, "What are you going to do?" I said, "I shall in
the judge," and he said it was so that if there was a m
trate in the county I was one.

Q. State whether or not you called upon the gove
about the 11th of May, 1870, and if so what you stated to
and who was with you? A. Myself, William H. Ste
Daniel Johnson and Wilson Cary called on the governor.

Q. Before you tell the conversation I want to know if t

gentlemen you have mentioned did not compose the most of the leading republicans in the county of Caswell? A. Yes, sir.

Q. You were recognized as the leaders of the republican party in the county? A. John W. Stevens he was along too, I did not mention him.

Q. He was the senator? A. Yes, sir.

Q. State it as fully as you can all the conversation you had with the governor in regard to that county and its condition? A. We were here and we consulted together in regard to the state of things in the county.

Q. [By Mr. Merrimon.] When was this? A. That was the time the convention was here—I think it was in March.

Q. Was it not in May? A. I don't recollect the month. We came to the state convention and were here.

Q. It was a political convention of the republican party? A. Yes, sir, the republican party had a state convention and we were delegates to that convention. We called upon the governor and stated to him that we thought he ought to give us some aid by some means, for we felt we were in danger in the county for our lives.

Q. From whom did you tell him you were in danger? A. We were afraid of the Kuklux.

Q. Did you tell him anything about a meeting of the magistrates that had been had? A. We had a meeting at the spring term, 1870. There was a meeting of the magistrates held then.

Q. Did you tell the governor in regard to what took place at that meeting? A. Yes, sir, we told pretty much what passed.

Q. What was it you told him? A. We told him that there was a meeting of magistrates for the purpose of asking him to send protection to Caswell, but we decided it was the duty of the commissioners to inform him of these things and that we thought they had failed of their duty. We could not get but five magistrates to sign the paper and it was dropped.

He said he could not do anything that he had done all he
He said I will send troops there but I don't know as that
stop the Kuklux.

Q. You asked him to send troops? A. We asked h
send them.

Q. What did you tell him about the civil authorities
We told him that we thought the civil authorities wou
persecute men for Kukluxing.

Q. You use the word "persecute" in the sense of "
cute?" A. Yes, sir, prosecute.

Q. Did you tell him whether complaints were num
A. I told him I had heard of a good many.

Mr. BRAGG. I would suggest that the witness be al
to tell what he knows about it, he is evidently willing to

Q. Tell what you said? A. We told the governor th
did not believe the civil authorities would prosecute th
klux, and he asked me what was the reason of that?
him the reason was that I had had conversation with on
had been whipped by the Kuklux, and he had told me
tively two of the men that helped whip him were on the
jury, and he had not heard anything from it at all. I tol
furthermore my reason, that if a tobacco barn was burn
a hog stolen it was found out and the man prosecuted, b
Kuklux had never been brought up, and we felt that ou
ple were not safe.

Q. Will you state what was the feeling between th
races in the county? A. I think it was pretty bad from
I heard—it must have been very bad.

Q. What was the feeling between the democrats and
republicans? A. There was a very bad feeling betwe
white democrats and the white republicans.

Q. Was Mr. Stevens a very prominent white republic
the county? A. Yes, sir.

Q. Was he not a recognized leader of the republican
there? A. Yes, sir.

Q. How long was this before Stephens was murdered

you had this interview with the governor? A. I think that was in March. It was when the convention was here we went to the governor.

Q. State how you felt with regard to the safety of the community? A. I felt for considerable time over there that I was safe but towards the last I did not feel safe after I got these notices. I thought I had tried with all the manners and everything I knew how and having got that notice to leave I did not feel safe at all.

Q. Did you leave? A. No, sir, I sent my family away, I thought I would get them out of the way, I was determined to stay until conference.

*Cross-Examination.*

By Mr. MERRIMON:

Q. Are you a preacher? A. Yes, sir.

Q. When did the conference assemble? A. The 15th of December.

Q. Where? A. In Newbern, North Carolina.

Q. Last December? A. Yes, sir.

Q. You say there was a pretty bad feeling between the colored people and the white people. I ask you whether the white people in Caswell generally last year did not employ the colored people to work for them? A. They employed a great many of them. A great many left the county because they could not get employment.

Q. Didn't others leave the county for the purpose of getting better wages on the railroad? A. Yes, sir.

Q. Why didn't you say that? A. They could not get enough there to live on.

Q. Don't you know that a great many colored people leased lands of the white people and worked it? A. Not many in Caswell.

Q. Don't you know that a great many leased land in your county last year, and planted tobacco and corn? A. Do you mean leased land by the year?

Q. Yes, and worked it? A. No, sir, they found the horses

and managed themselves. The colored people work shares.

Q. Is not that the universal practice in the county That is the way they work—on shares.

Q. How are the parties divided there—which is in th jority? A. The republican party has a majority of near hundred, or did have at first.

Q. You say the sheriff did not execute the process issu you? A. He did not execute one.

Q. What did he assign as the reason? A. He said I w a legal magistrate.

Q. What did he mean by that? A. I don't kno meaning.

Q. How had you been made a magistrate? A. I w pointed by the governor.

Q. When? A. Why?

Q. Why weren't you elected a magistrate? A. elected.

Q. Elected by the people? A. Yes, sir, elected by the p

Q. Then you wern't appointed by the Governor? A. appointed in 1868 and was elected afterwards.

Q. What time did the sheriff execute the process? A vember.

Q. Of what year? A. 1869.

Q. Were you elected in 1869? A. Yes, sir, I was el

Q. Had you qualified? A. The election there, allow to state—in the township—the county commissioners they were entitled to three magistrates and when they co run the other side they were going to run three on their and we put three on our ticket and when we got three o ticket we elected all of ours and they said it was illegal.

Q. They said it was illegal? A. Yes, sir.

Q. They disputed your being a legal magistrate on the g that you were not legally elected—was that so? A. N there was no dispute at all. I want to tell you. The c

vative party most of them generally said I received a majority of the votes. Jerry Graves was next.

Q. Was he a colored man. A. A white man. They thought he was entitled to the office and me, and the others they said ought to be dropped and then they said we were holding over—no one of the magistrates elected on our ticket appointed to hold the whole three magistrates over and to hold his position as a magistrate had nulled and void the election because we had three on the ticket and it was an illegal election.

Q. I don't understand you exactly, but what you mean is that there was a controversy as to whether you were legally elected or not? A. Yes, sir, there was.

Q. This warrant you say which you issued was got out by one black man against another? A. Yes, sir.

Q. And the sheriff said you were not a lawful magistrate? A. He said I was not, but he acknowledged afterwards that I was.

Q. You say you left it to the judge? A. Yes, sir, I told him I would leave it to the judge.

Q. The judge said you were a legal magistrate? A. He did.

Q. Did he then execute the process? A. No, sir, John W. Stephens issued a warrant and had the parties arrested.

Q. He arrested them upon Stephens' warrant? A. No, he deputised.

Q. A deputy executed it? A. Yes, sir.

Q. Did he ever execute a warrant issued by you afterwards? A. Yes, a hundred times.

Q. He extecuted every warrant you issued to him after that? A. Yes, sir.

Q. Another warrant issued by Stephens for the same parties and the same offence for which you had issued a warrant? A. Yes, sir.

Q. And the sheriff executed it? A. No, sir, he did not.

Q. But he did it by deputy—that is the same thing? A. Yes, sir.

Q. Was that a political convention you came he
Yes, sir, certainly.

Q. A republican convention? A. Yes, sir.

Q. Did you come here to pass resolutions and n
nations? A. Yes, sir.

Q. You are a preacher and participate in politics?
sir.

Q. I did not know that those callings ran together.
convention did you discuss the prospects of the parties
A. I did not.

Q. What others did? A. I don't think any of th

Q. Did Stevens? A. None of the delegates fro
had anything to say.

Q. Was anything said about election when you w
the governor? A. Do you mean the pending electi

Q. The election that came off in Augnst? A. I
rectly recollect.

Q. It is very important that you recollect. Do y
that Stevens and all of you talked about how the ele
to be carried up there, and who were to be the candi
there in Caswell when you had your interview with
ernor? A. We were talking about the convention
things went in the convention.

Q. Did you not talk as to who should be the cand
Caswell? A. No, sir, that was already understood a
there was nothing said about that.

Q. Didn't you have a notion of being a candidate
A. No, sir, I did not urge my claims before the people

Q. Did you not talk of becoming a candidate for the
A. No, sir.

Q. There was no one mentioned except Mr. Steph
colored man that they wanted to run in his place?
sir.

Q. They wanted Stephens to give way and run so
else? A. They wanted to put Carey in the Senate.

Q. The colored people did? A. Yes, sir.

Mr. BOYDEN. What has that to do with it I should like to know.

The WITNESS. They said that they were in the majority and they would like to have a colored man put in and they thought they were entitled to put a colored man in the senate.

Q. Don't you know that the governor told you in every conversation and in every talk that you had about elections in Caswell, that the colored people ought to get rid of Stephens? A. No, sir, I don't know.

Q. What did he say about it? A. He did not say anything about getting rid of Stephens.

Q. Didn't he tell you that he was a very unpopular man and that he had a letter from Mr. Donaho saying that he was an unpopular man and that he would injure the party there? A. No, sir, I never heard it.

Q. You are sure of that? A. Yes, sir.

Q. You wanted Wilson Carey to run for the senate? A. That was the feeling.

Q. Stephens would not yield? A. No, sir.

Q. He insisted on running? A. He wanted to run.

Q. Was George Bowe talked about as a candidate. A. Yes, sir.

Q. What was he talked of for? A. For the House.

Q. George was a colored man? A. Yes, sir.

Mr. BOYDEN. I would like to ask the counsel the purpose of this testimony.

Mr. MERRIMON. I desire to show the facts and circumstances which tend to prove that this whole matter as to sending troops there was a device to carry the election.

The CHIEF JUSTICE. A great deal must be left to the discretion of counsel as to consuming time in the examination of witnesses.

Q. Didn't you tell the governor that unless troops were sent there you could not carry the election? A. I did not.

Q. Didn't Stephens tell him so? A. I don't know, sir.

Q. Weren't you present when Stephens was with the

governor? A. He did not tell him that while w
together.

Q. Who were present there with the governor t
you and Stephens were there? A. There was Steph
brother William H. Stephens, myself, Wilson Ca
Daniel Johnson.

Q. You were all there? A. Yes, sir, we were a
together.

Q. Wasn't the election talked about at all? A.
we stayed there but a very few minutes.

Q. You told the governor you wanted troops sen
A. We used the word that we felt we ought to ha
protection and for him to send some troops there t
parties who were practising these outrages upon the

Q. How many outrages had been committed ther
time to your knowledge? A. I don't know of but
of my own knowledge.

Q. What were they? A. I knew of a man who h
whipped.

Q. Did you see him? A. I saw him.

Q. Did you examine his back or person? A. I di

Q. How do you know he had been whipped? A
know what he had told me.

Q. You cannot give what he told you. Did federa
come there—the United States troops? A. They did.

Q. When? A. I don't know what date they came

Q. Were these troops sent by reason of what y
requested to be done? A. I could not say whether th
or not.

Q. Didn't they come after that conversation? A.
they came after that conversation.

Q. Were you not satisfied with them? A. Not satis
the federal troops?

Q. Yes, sir? A. I did not make any complaint
them.

Q. Did you make any application to the governor

federal troops were there that he should send up the militia as he calls it? [No answer.]

Q. Did you ask the governor to send Kirk there? A. We asked him to send some protection and afterwards he sent Kirk.

Q. Did you ask him to send Kirk or anybody else but federal troops? A. I don't recollect.

Q. Try to recollect—did you see him any more? A. Yes, sir, I saw him afterward.

Q. When? A. I don't know that I talked with him.

Q. Where was it? A. I saw him in May.

Q. I ask you if the time you were here at the Convention was not in May—I want you to recollect a little on our side as well as on the other? A. Perhaps it was in June that I saw him here.

Q. At the time you saw him, was it after Kirk had gone up there? A. I saw him after he had gone there.

Q. I desire to put a question to you again which I put sometime ago. Did you apply to the governor at any time after the federal troops came there, for more troops? A. I think I did.

Q. Where? A. In his office. I don't recollect what date.

Q. What did you want more troops for? A. I did not believe these were doing their duty, and would not do it.

Q. They did not cut up enough—they did not go around and arrest people like Kirk did? A. No, sir, they did not make any arrests at all.

Q. That did not suit you? A. It seemed to look like things would continue.

Q. What was done after they came there, was there any whipping—can you mention a man? A. I cannot recollect particularly.

Q. You don't know a single case of outrage after the federal troops came there? A. I don't recollect.

Q. How many barns were burned there? A. I think I heard of three.

Q. I ask you how many persons have been co
for barn-burning? A. Nobody.

Q. [By Mr. Smith.] Do you know that thes
burned, yourself? A. I told them that I heard

Mr. SMITH. We object then to the proof.

Q. Do you know that anybody was convicted
ing in that county? A. I don't.

Q. What do you know about barn-burning an
All I know is that I saw the ashes of one.

Q. Whose? A. Thomas D. Johnson.

Q. Do you know who burned the barn? A.

Q. You have no knowledge of it: t'all? A. N

Q. You never heard a man say that he had bur
A. No, sir.

Q. Or suggest that it should be burned? A.

Q. You never knew anything about it?
about it.

Q. How long after the federal troops went t
when Kirk got there? A. I don't recollect th
time.

Q. I ask you particularly whether or not you sav
nor between the time when the federal troops wer
the time when Kirk went there? A. I don't recoll
that I saw the governor before any troops got there.

Q. We have heard all about that. The other que
I want you to answer is, whether you saw the g
tween the time that Captain Field went there an
that Kirk went there? A. I don't remember, my be
about it is that I did.

Q. You did see him? A. Yes, sir.

Q. You told him the federal troops were not
duty? A. I did not tell him that.

Q. Did you tell him that you wanted more tr
That I thought there ought to be more there.

Q. Did you tell the governor so? A. I think I

Q. Why did you think there ought to be more t

Those few placed right there at Yanceyville, in my own judgment, I did not think were able to take up or make arrests in all parts of the county, there being three other permanent places in the county.

Q. You wanted troops stationed all over the county? A. Yes, sir, I thought they ought to send enough.

Q. Did you not think Kirk's proceedings up there were all right? A. I did not have anything to say in regard to it.

Q. Wasn't that the way you wanted it done?

Mr. BADGER. We object to the question.

Mr. MERRIMON. We think that the evidence is competent.

The CHIEF JUSTICE. The presiding officer thinks that it is not competent to prove the witness's notion about it.

Q. Did you ever express your views to any one about it? A. I did not.

Q. Did you tell the governor that it was easy to find out who burnt barns and stole hogs, but you could not find out who committed outrages for whipping? A. I did not say so.

Q. Did you not say so a while ago? A. I said that if a hog was stolen or a tobacco barn was broken open, there was no trouble to find out who did it.

Q. You did not say if a tobacco barn was burnt? A. I am sure I did not.

Q. You swear you did not say they could find out if a tobacco barn was burnt? A. No, sir, if a barn was broken open or a hog was stolen, it could be found out.

Q. You did not say that if a barn was burnt? A. No, I said broken open.

Q. What did you tell the governor? A. I told him that if a barn was broken open—if a tobacco barn was broken open or chickens or hogs or anything of that kind was stolen, why they could track them up, but it seemed to me that they could not track up the Kuklux at all.

Q. You did not tell him they could find out who burnt barns? A. No, sir.

Q. You are sure of that? A. Yes, sir.

Q. Whose barn that was burnt, was it that you sa Thomas L. Johnson's.

Q. Was he a republican? A. No, sir.

Q. What was he? A. A conservative.

Q. You saw that barn that was burnt? A. I saw th afterwards; I did not see it when it was burning.

*Re-Direct Examination.*

By Mr. BADGER:

Q. Have any of the men who have been guilty of th klux outrages been punished in Caswell County? A that I ever heard of.

Q. You said that you were a minister of the Me church? A. Yes, sir.

JOHN T. FOGLEMAN, *a witness called on behalf respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. Do you belong to the White Brotherhood? A.

Q. Did you ever? A. I never did.

Q. You never belonged to the White Brotherhood? did not—I wish you to understand me.

Q. Did you belong to the Constitutional Union G A. I did.

Q. State how many there were in your klan or camp I am unable to state the number of the organization.

Q. About how many? A. I have no idea. Do yo to know in reference to the state, the United States, the or what?

Q. I am alluding to the organization that you belonge your sub-division, by whatever name it was called? A. I allude to those in the county I live in?

Q. Yes, sir? A. I don't know, but probably there wa I am not positive as to the number.

Q. How many was there in the lodge, camp, klan, or ever else it was called that you belonged to? A. I think

was seventeen or eighteen that I recollect. We did not keep any record at all—any list of names but I think there were seventeen or eighteen.

Q. Were there not a great many more than seventeen? A. No, sir, there were not while I was south commander.

Q. Where was that located? A. It was located in Coble township No. 2.

Q. In Alamance county. A. Yes, sir.

Q. What part of the county is Coble township? A. It is in the south-west portion rather.

Q. You say you were south commander of that? A. I was; of a klan.

Q. In Coble township No. 2? A. Yes, sir.

Q. How long were you south commander? A. I was elected south commander in the spring of 1869—in the spring of 1870.

Q. You say you became a south commander in 1869? A. In '70.

Q. What time? A. In the spring or winter—the latter part of the winter probably it was—I am not positive as to the month.

Q. You mean in the first part of the year? A. Yes, sir.

Q. In the first part of the year you became south commander of that camp? A. Klan, sir.

Q. Do you call it klan? A. They don't go by the name of camp in that order.

Q. What was the name it went by? A. Klan.

Q. Do you know of any outrages being committed by the camp or klan? A. No, sir, I don't know of any.

Q. You know of none at all? A. None at all.

Q. Do you know of any being committed by any other klan in the county? A. No, sir, I do not, not of that order the Union Guard—and not of any particular order.

Q. Do you know of any being committed by the White Brotherhood? A. I do not as to any particular order. I know of one that was committed, but I do not know who by.

Q. What outrage was that? A. It was the v
Hamilton Brein, I guess. I don't know.

Q. Do you know how many camps of the C
Union Guard there were in the county? A. I
of but two of my own knowledge—two regula
klans.

Q. Where were those located that you knew of,
of the county? A. Well, the one which I was sou
der of was in the Coble township No. 2, and one t
the name of Patterson township, No 1.

Q. Where was that? A. That was in the extr
west corner of the county.

Q. That was further south than you? A. Yes,

Q. Then the two that you know of were in a ve
part of the county—a very limited area of the co
Yes, sir, in the southwest corner, a body might say.

Q. You know nothing of the order in any other
the county? A. No, sir, I do not. I don't know a
the order existing in the county excepting in those
ships

Q. Do you know Jasper N. Wood? A. Yes, sir

Q. Did you know him to be a south commander?
not.

*Cross-Examination.*

By Mr. Merrimon:

Q. Did you hear a colored man examined here
day who swore that Michael Euliss and a man by th
Thompson lived in Alamance? A. Yes, sir.

Q. Andrew Shoffner, is that the colored man's r
Yes, sir, Andey Shoffner.

Q. Where did Euliss and Thompson live? A. T
Guilford.

Q. At the time he swore to? A. Yes, sir.

Q. Do you know that? A. Yes, sir, I do. E
with his brother-in-law, Colonel Dave Coble, in Gui

had been living there for some time, and Thompson lived on his own land in Guilford.

Q. Are you sure of that? A. Yes, sir, I am certain of that for I live not far from the line myself, I live within about a mile of the line, and was very well acquainted with the two men and know where they lived.

Q. What is the character of that colored man, Andy Shoffner? A. Well, sir, I think it is very bad, I know it is bad.

Q. For what? A. For honesty and truth.

Q. Do you know Hamilton Brein? I do sir.

Q. Has he been examined here? A. He has.

Q. What is his character if you know it? A. It is not good.

Q. If you say it is bad what do you say it is bad for? A. Well it is bad for honesty, I don't know that I could say his character was bad for truth, he is considered a dishonest man.

*Re-Direct Examination.*

By Mr. Badger:

Q. You have testified to the character of Andy Shoffner, how near did you live to him? A. I don't live quite close to him now, but he belonged to my grandfather and I live close by him, and I think I have a perfect right to know his character. I have known him ever since I have been large enough.

Q. That is not the question—what you know of it, you are giving your own opinion of his character? A. I am giving what is generally said about him in the community.

Q. Whom did you ever hear speak of his character. A. Almost everybody.

Q. Mention one? A. His old master Michael Shoffner.

Q. What did he say about his character? A. He said his character was bad, always was bad.

Q. When did he say that? A. He has said it many a time to me.

Q. Was it when he was a slave? A. And since. I have heard his young master Joel Shoffner say not one month ago

he was one of the worst niggers he ever saw—or
knew.

Q. Who else? A. Numbers of people in the nei

Q. Who else—just mention some more of them?
there is Colonel Shoffner, the senator here who sa
very bad negro, he has told me frequently.

Q. You mean the man who left the county? A
Alfred Smith, Captain Euliss, and if you want any
tell you as many as you wish.

Q. Go on and tell? A. Henry Isley.

Q. How far did Michael Euliss live from the lin
lives about a mile.

Q. About a mile from the line in Guilford? A.

Q. How far does the other one live from the l in
lives about three quarters of a mile, I think fro
about that, I think.

Q. Do you know it—have you ever been to his h
Whose, at which one's house?

Q. To the last one you spoke of? A. Thompson

Q. Yes, sir? A. I have, sir, many a time.

Q. And you know he was living there at the tim
was whipped? A. At the time he said he was
know he was living there.

Q. Do you know that the other was living in Guil
time? A. I do.

Q. How far do you live from them? A. I live a
miles from them.

ABIEL W. FISHER, *a witness on behalf of the r
being re-called testified as follows:*

By Mr. Smith:

Q. Do you know whether Col. Kirk and the re
persons took the oath to support the constitution of N
olina? A. I know of my own knowledge that Col
and Lieutenant Colonel Burgen did, those are the onl
I know of my own knowledge.

Q. Do you know whether or not the family of Col. Kirk were in the state during the time that he had charge of those troops or any part of it? A. Part of the time they were. I saw them.

Q. They were here? A. Yes, sir.

Q. How long were they here? A. I could not say exactly, I think a month.

Q. In the summer—last summer? A. They came sometime before he went from Yanceyville to Company Shops. I don't know the exact day—sometime before the middle of August. I don't know exactly what time they came to Yanceyville but I know they were there at that time.

Q. They were there with him? A. Yes, sir.

Q. Were those troops mustered into the state service? A. They were.

Q. Do you know how the colored troops were used and how they were enlisted?

Mr. GRAHAM. Of your personal knowledge, sir.

A. I know by the papers that they were mustered by a separate detachment and while on a visit to Graham I know they were employed—some of them at least—as teamsters and hostlers. I don't know whether all of them were so employed or not.

Q. They were in a separate body and a great many of them were employed in that way, but you don't know whether they all were or not? A. I understood they were all enlisted for that purpose.

Mr. GRAHAM. Don't tell what you understood, we ought to have the record.

Q. Is there an order on the book there for the arrest of Burgen directed by the governor and if so for what?

Mr. GRAHAM. The senate rejected that evidence the other day.

The CHIEF JUSTICE. The presiding officer will hear the counsel for the respondent.

Mr. SMITH. I was going to say, Mr. Chief Justice, that

one of the senators at least, told me—though I
to what extent the apprehension may have
that he did not know the purpose for which
the evidence before and I have thought it
offer now, and to make this explanation. We
show that upon hearing of the misconduct of Burg
ing black-mail of persons he was ordered to be arre
and his other offences; that instructions were given
ernor to that effect, and the order of the arrest wh
found upon the books was founded upon that ch
the senate took action on the previous affair there
variety of evidence carrying these transactions dow
very near that in which this order was issued.

Mr. GRAHAM. The matter was fully debated
Justice, before. The order bears date the 22d of A
the prisoners had been all released on the *habeas*
of course, after the time when it could have any
this controversy. It was not only rejected but very
so, for the matter was discussed several times after

The CHIEF JUSTICE. Unless there be a moti
sider that vote the presiding officer looks upon the p
cision as binding.

Mr. SMITH. I suppose the senate merely establi
when they rejected the evidence. That has not the
res-judicatæ.

The CHIEF JUSTICE. No, but it is a rul
require a motion to reconsider it if it is not to go
rule established the other day allows the counsel on
to make an appeal provided the demand is seconded

Mr. SMITH. We desire this evidence to com
make this motion for the reconsideration of the rul
ing this testimony.

The CHIEF JUSTICE. The question will be
evidence shall now be admitted.

A sufficient number seconding the demand,

The Chief Justice put the question on the motion to admit the evidence.

The CLERK proceeded to call the roll.

The name of senator Flemming was called.

Senator FLEMMING. When the previous vote was taken to admit this evidence, I voted in the affirmative. But desiring to conform to the action of the court previously expressed I vote no.

The Clerk concluded the call of the roll and the motion was decided in the negative by the following vote.

Those who voted in the affirmative are:

Messrs. Beasley, Bellamy, Brogden, Cook, Cowles, Eppes, Flythe, Hyman, King and Olds—10.

Those who voted in the negative, are:

Messrs. Adams, Albright, Allen, Battle, Crowell, Dargan, Flemming, Gilmer, Graham, of Alamance, Graham, of Orange, Jones, Latham, Ledbetter, Lehman, Linney, Love, Mauney, McClammy, Merrimon, Moore, Morehead, Murphy, Norment, Robbins, of Davidson, Robbins, of Rowan, Skinner, Speed, Troy, Waddell, Warren and Worth—31.

The hour of two having arrived, the court took a recess till three o'clock.

## AFTERNOON SESSION.

The COURT re-assembled at 3 o'clock Hon. R. M. Pearson, Chief Justice of the Supreme Court in the chair.

The CLERK proceeded to call the roll of senators, and the following members were found to be present:

Messrs. Adams, Albright, Battle, Beasley, Bellamy, Cook, Council, Crowell, Dargan, Eppes, Flemming, Flythe, Gilmer, Graham, of Alamance, Hyman, Jones, King, Latham, Ledbetter, Lehman, Linney, Love, Mauney, McClammy, Merrimon, Moore, Morehead, Murphy, Olds, Robbins, of Davidson, Robbins, of Rowan, Skinner, Troy, Warren, Whiteside and Worth—36.

GEORGE ANTHONY, *a witness called on behalf respondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. Are you a member of the White Brotherhood? A sir.

Q. You live in Alamance? A. Yes, sir.

Q. And are chief of a camp? A. Yes, sir.

Q. How many members were there in your cam I believe seven or eight.

Q. No more? A. No, sir.

*Cross-Examination waived.*

Mr. BADGER. We have introduced this witness, or two others to show under the rule laid down for the numbers of the members of the order in the re camps by their chiefs.

JAMES COMPTON, *a witness called on behalf of spondent, being duly sworn, testified as follows:*

By Mr. BADGER:

Q. From what county are you? A. Caswell.

Q. Did you see a man named William Ward after been whipped? A. Yes, sir.

Q. State in regard to him? A. He was whipped bad.

Q. How? A. He was whipped with brushes.

Q. State the condition of his body when you saw next morning? A. It was not cut, but it was bruise

Q. How much? A. His whole back. It was in bad condition.

Q. Did you examine it all over? A. Nothing mo his back.

Q. That was in a very bad condition? A. The b bruised all over, and it was cut in some places.

Q. Do you know of any other outrages committed county of your own knowledge? A. No, sir.

Q. None have come to your knowledge? A. None right around there.

Q. When was this that he was whipped? A. The last of last April.

Mr. MERRIMON. We desire to cross-examine General Fisher who was on the stand at the time the court adjourned.

ABIEL W. FISHER, *a witness re-called on behalf of the respondent, testified as follows:*

*Cross-Examination.*

By Mr. MERRIMON:

Q. You state that the negroes in Kirk's command were regularly mustered into the service as a separate organization? A. I said they were mustered in a separate detachment.

Q. What evidence have you of that. I see they are put on the regular muster roll with the companies? A. The muster roll shows that they were in a separate detachment.

Q. I wish you to point out on the muster rolls the entries showing that these men were in a separate detachment? A. The muster rolls are not all here.

Q. I know they are not here? A. They are all except those that were put in evidence. It would appear on the rolls.

Q. But they do not appear on a separate roll by themselves, so far as I have examined. I understand you to say that there was a separate detachment which embraced only the negroes? A. I understood that all the colored men were mustered in a separate detachment, but with white officers. The muster rolls were sent into the managers.

Q. I am not speaking of the colored men under Colonel Clarke. I am speaking of those under the command of Kirk. Do I understand you to tell the court that they were mustered and organized separately, and placed under the command of Kirk? A. The colored men were all in one detachment, which was officered by white men.

Q. Where is the muster roll? A. It was sent into the managers.

Q. See if it is there now? A. I think it has been pr
Here it is (the witness produces the paper headed "Descr
roll of detachment 2d Regiment North Carolina State tro

Q. How does it happen that these same names are c
other muster roll? A. I think they are not on the other
ter roll.

Q. What are they on? A. The muster and pay rolls.

Q. Were not these colored men apportioned out amon
companies, and they not so reported on the muster rolls
I think I have never had an opportunity to examine the
with that view, but I think not.

Q. How many were there in this detachment? A.
not know, only when they came to be paid off. I think
were some eighteen or twenty—somewhere along there.

Q. Was W. H. Deaver, first lieutenant—what compan
he belong to? A. I think he was mustered in an
company.

Q. Didn't he belong to any other company? A. He
but was put in command of this detachment, and then an
officer put into the original company to which he belonged

Q. He belonged originally to another company? A. I t
so.

Q. Did he resign his office there? A. Well, he was t
ferred, and another one appointed in his place.

Q. Is that the man who was examined here to-day?
don't know.

The CHIEF JUSTICE. He said he had a cousin t
but that he was not there himself.

Q. How are these colored men enlisted—were they enl
as soldiers or teamsters or how? A. I don't know any
than as the roll shows.

Q. You go by this roll? A. Yes, sir.

Q. You know nothing about it outside of that?
Well,——

Q. Why weren't they marked colored? A. The off
made some explanation to me of the use they put them to.

Q. Why are they not marked colored on that roll? A. I know of no reason.

Q. There are two muster rolls of company G—how do you explain that? A. Company G was paid on the 5th, 6th or 7th September, somewhere along there. About that time Colonel Kirk was directed to keep one company of fifty or sixty men several days longer, and he did, and they were afterwards mustered and paid—about the 12th I think.

Q. And they made out two rolls? A. Two rolls of the same company.

Q. You state that Kirk's family came here. What time did Mrs. Kirk come here? A. I wish to explain my testimony in that regard. I first saw them to know them of my own personal knowledge when they were here about the 6th September. Before that I only knew them by hearsay.

Q. I ask you if you don't know that Mrs. Kirk came here after Kirk went into custody of the United States Marshal? A. No, sir, I do not.

Q. To keep him company? A. No, sir, I saw her at Graham before that, some time.

Q. Do you know that Kirk came from Tennessee? A. Only by reputation—what I heard.

Q. Whether he changed his domicile or not you do not know? A. I know nothing of that except——

Q. I will ask you this question—do you know whether, after there was considerable noise before the chief justice here, in connection with these *habeas corpus* matters that have been spoken of about Kirk, and the fact that a portion of his men came from Tennessee, it was pretended, with a view to any difficulties that might arise, that Kirk had changed his domicile? A. No, sir, I don't know anything about that.

Q. Did you never hear anything about it? A. I do not know that I ever did. I might, and I might not. I cannot say positively as to that.

Q. I ask you now whether you do not know it—whether you do not know that that was a mere subterfuge after they got

up a great stir about it before the courts that he, an
his men from Tennessee—that then it was underst
governor that these men were to change their d
taking the oath in North Carolina to support the co
A. No, sir, I don't think so. He had taken the o
that.

Q. Did you see him take the oath? A. Yes, sir.

Q. Did he take it before you? A. It was admin
Mr. Farris, a justice of the peace at that time in tl
the private secretary.

Q. What right had he to administer the oath? A
justice of the peace at the time.

Q. You did not see anybody else swear? A.
Burgen that is all.

Q. Why were these men mustered into the ser
Well, Colonel Kirk complained that there were so
hensions on the part of his men that they would n
unless they were formally mustered in. I didn't thi
necessary, but upon his representation Colonel Dou
up to muster them in.

Mr. MERRIMON. We may want to call this wit
to make an explanation about these muster rolls.

*Re-Direct-Examination.*

Mr. SMITH:

Q. What instructions were given to the officer wh
ed these men into the service as to taking an oath of all
A. The officer was directed to administer the oat
men as set forth in the constitution.

Q. The oath of allegiance?

Mr. BRAGG. He says the oath set forth in the
tion of North Carolina.

Mr. SMITH. There is one oath for the governor.

The WITNESS. It was the one set forth here.

Q. [By Mr. Badger.] Do you mean the oath set
the militia? A. There is no oath set forth for the n
all. There is only one oath set forth.

Q. [By Mr. Bragg.] The oath for public officers? A. Yes, sir.

Mr. BRAGG. Read it if you please.

Mr. BADGER. What was the oath required by the militia law?

Mr. BRAGG. There is no oath required for the militia.

The WITNESS. There is an oath required for officers of the militia.

The Witness read the following:

"I, ———, do solemnly swear that I will support and "maintain the constitution of the United States and the con- "stitution and laws of North Carolina not inconsistent there- "with, and that I will faithfully discharge the duties of my "office: So help me God."

The WITNESS. All officers were required by the militia law to take that oath, and the mustering officer was instructed to administer it to all the officers, and also to the men.

Q. Was it done or reported to be done? A. It was reported to have been done.

Mr. MERRIMON. That oath has been repealed.

Mr. BOYDEN. How can it be repealed.

Mr. SMITH. It is a part of the constitution.

By Mr. GRAHAM:

Q. Where is the return that you say you made? A. I think those are the papers—the muster rolls, [producing the papers referred to.] Shall I read?

Q. Yes? A. [Reading.] "We, whose signatures appear "below, have taken and subscribed the following oath: I do "solemnly swear that I will support and maintain the constitu- "tion of the United States, and the Constitution and laws of "North Carolina not inconsistent therewith, and to faithfully "discharge the duties of my office: So help me God." Then follow the signatures of the men purporting to have been mustered in by Colonel Douglas.

Q. [By Mr. Bragg.] The men? A. The men and officers—

John H. Wheeler, Captain; William F. Duncan, I
tenant, &c.

Q. [By Mr. Merrimon.] Is that so on all of t
rolls? A. I don't know. The muster officer was in
administer that oath to all the men and all the officer

Q. [By Mr. Badger.] And report to you that he
? A. He reported to me that he had done it.

ABI ALLEN, colored, a witness called on behalf
of, who, being duly sworn, testified as follows:

By Mr. BOYDEN:

Q. What is your husband's name? A. Samuel A

Q. I want you to tell all you know about disguise
coming to your house, all that they said, and all you k
it? A. Well, the first time I saw them they was s
in February, about the 18th I think. They passed t
they didn't make any stop; they just passed on. W
the racket, and we went out and saw them pass on.

Q. Now go to the second time. We don't care
about the first time? A. The second time they came
I heard a rush, the dog gave a bark
rushed against the door pelting at the d
calling Sam Allen. I don't know particularly t
said him. But calling to "Open the door, open t
Well, he didn't reply to them you know, and
minutes they called again, "Open the door." We
him not to answer, and upon that they commenced
and pelting against the door with a pole and rock,
instruments until they punched a hole through
Then they went on still calling and telling, "Get
the door, we won't hurt you." Well, he got up then,
he got up I did, and he answered them. He we
door, and when he got out I got out too and he we
door. I told him not to go before the door, they mig
him. We steps to the window about the door, and
the curtain, and looked out there. They were stand

in the yard saying, "Open the door." He opened the door and when he opened the door he went into the door, and I goes and stands in the door by his side. They talked to him, and they told him to come out, and asked why he didn't open the door when they told him. Well, he said because his wife was not willing. Said I to them, "What are you here for—what business have you got that you came at this time of night—this is no time of night to come to a mrn's house at the dead hour of night to roust him out of his sleep." Well, one of them said, "The least you say the better for you," and he presented a pistol, and said he would shoot me. They then gave back and one of them said shoot him. They might have presented a pistol at him. They went on and told him to "Come out here." Well, he says, "You told me to open the door, you wanted to talk with me—here I am to hear what you have got to say." They said "Will you come out here to us." They stood around in the yard and said, "Come out here to us." Well, he turned off and says, "I shan't do it," or "I shall not "do it," and turns around, and when he turns around and goes back one of them threatens to shoot. I sort of steps around to tother side of him to the door, and takes hold of the edge of the door, and pulls, and he came around by me, and passed on to the head of the bed. I didn't look back to see where he was going, but I slammed the door to as soon as he comes out of the door, and when I slammed the door to, there was one standing by the side of the house on my right side—when I stood in the door standing right close by in the window. When I slammed the door to he jumped up and pushes the door open and it struck me short here, which hurt me very bad for some days, and I pushed against the door trying to push it to, and he pushes against me rather hard. We didn't get the door to right smart. The first thing I knew my husband came by me with a sword in his hand, or a sabre, whatever they call it, and thrust him out of the door with his sabre, and when he thrust him he pitched away out into the yard sideways, and

from that when he thrust him out there some of the
up their hands, and made sort of screaming. He n
anything, but as soon as my husband slammed the
sort of steps to the window close by, and there he la
the road before the west door right out to the big roa
he was fixing his door. Directly he fixed it he w
through between the beds. We entered into the kit
when we entered in he goes through with me. I sa
"You had better not come in here." When I got i
saw them setting the kitchen part next to the wind
I saw the matches blaze, and I got through there.
to the door. He comes and takes away the prop a
door, and said I, "You had better not come out here."
"I will try to save the house," and I goes to the
opens it, and said I, "Gentlemen, do please don't bur
house." Well, he turned back. I never knowed w
left, but he went out from me, and I didn't see him
that night. Well, I opened the door, and goes in the
stands, and talks with them. I plead for the house, I
them not to burn it, for said I, "The leather in here w
the neighbors up in the way of leather and shoes."
said they, "What do you take in work for?" "Well,"
"That is the way we live." From that they went o
minutes. I heard some of them say, "Yonder he goes.
he goes, shoot him, shoot him." I still stood in the d
begged them to tell me what he had done. Said I,
men, tell me if you please what Sam Allen has don
are you after?" They would not tell me what they w
him. I again plead with them not to burn the ho
told them I didn't know a thing he had done. W
would not tell me what he had done, but just said the
going to have him. They ran him apiece, I don't kn
far, because I didn't see them, but they came back.
them come back down through the garden, one in pa
He comes up in the yard, and says he to me—I was s
in the door—said he, "What did you let him get out for."

I "I could not help it." Said he, "You led him out." Said I, "No, I didn't. I was standing here all the time, you told me to come and stand in the door, because you wanted to talk with me, and I have been standing here all the while." I said I didn't know that he was out there till I heard them say, "Shoot him"—and I didn't either. "Well," he says, "we intend to have him on the risk of our lives, and I want you to tell him we intend to hang him away up yonder." Said he, "You tell him when he comes back that he belongs "to us and the devil"—"you tell him so when he comes back "and we intend to have him at the risk of our lives." And upon that they began to move off to the field, where this one was hurt I guess for he went down on the road. They began to go off a few at a time, until they all went off till you may have seen half a dozen or more in the yard. They kept lighting, you know, trying to burn the house, and I kept begging them not to burn it. At last some of them lit a rag or something and throwed it on me and every once in a while they threatened to shoot me. Well this one that came down through the garden, he came up to me and said, "I know you have let "him out." Some of them said, "Shoot her," and he took out a pistol and throwed it up and struck me, and the blow glanced down. It hurt me for several days, but they didn't shoot nary time. By that time, they kept going off a few at a time and told me to tell him when he came back that they intended to have him and to hang him when they got him. I plead at them to know what he had done. Well one says, "He hain't "done nothing to us now." One of them says, "What did "he hurt one of our men for?" Said I, "Did he "hurt one of your men?" Said he, "Yes, he hurt one "of our men to-day—he wounded one of our men to-night" that was his words—from that they went off; there was one staid behind back in the yard and he talked to me after these were all gone down to the house. He had a lantern in hand all the time—it was sitting in the yard burning. He said to me when they were all gone, said he, "If you ain't every one gone from

here by to-morrow night"—that was Monday night—
ain't every one of you gone from here by Tuesday
intend to come another night and kill every one of
burn every house on the premises." We still staid
day time for a week afterwards.

Q. Who was there that night? A. Joseph M
teacher.

Q. Who else? A. He was there and said to me—
remember it as I went on—he said after they had run
said he, "Where is that teacher that was here?" said I
not here." "Well," said he, "Where is he?" Said
went home with the school children." One of them s
he didn't, because we saw him here at dusky dark.
gone." There was a young man boarded there and
school to Joseph Mebane and he came in the door and
to the same, said he "Yes he is gone. If you go
Lewis Wood's you will find him there, he is not here."

Q. Who else was there? A. There was nobody th
night.

Q. Go on to the night when Robbin Jacobs was th
I was not at home that night.

Q. How many do you think there were there of
guised persons? A. What? the first night they ca
house?

Q. Yes, the first night and then the second nigh
don't know how many there were the first night, b
talked with. There were some twelve or thirteen,
stood in the yard. But as to how many more they ha
know.

Q. How many followed them? A. I don't know h
came back, but when they came back they kept on
few at a time down to a carryall which was down in
near the spring path and the big road. Right across th
had a carryall standing close to that road.

Q. How do you know that? A. I saw it.

Q. When? A. I saw it that night, because t

a lantern with them, and when they left they went down to where the man was hurt, and they went to the carryall. When the last went down there this one that staid and talked with me last carried the lantern in his hand and carried it to the carryall, and I saw them around the carryall, and there was a horse standing in the carryall and these men passed along. When they got on the side of the carryall I saw it plain. The moon shone and though it was in the woods I could see by the lantern for I stood out in the yard and looked at them. The last night they were there—on Friday night—I wasn't at home. I staid at home until 10 o'clock, and this young man that boarded at my house came and persuaded me to leave.

Mr. GRAHAM. You need not state what was said to you.

Q. State whether you did leave or not? A. Yes, sir, I left about ten o'clock that night and went to a neighbor's house and staid there. Betwixt midnight and the day I was awakened by the report of a gun very loud. I wasn't quite asleep, but it waked me up so that I jumped up and run out of doors and right over towards my house. I never did in all my lifetime hear such a racket. It seemed the old field, plantation and everything about there was just in a yelp just like geese. It seemed like there was something like two or three hundred making a fuss. In that old field it seemed like and that six acre lot was covered with men halloaing and yelling. The old man that I staid with, who was something like seventy odd years old said he never heard such a to do in his life.

Q. You heard the noise? A. I heard the noise. I expected every minute to see a flame at my house and I takes the two boys there and tries to get to where I could see them. I found they were making towards the road—they were coming towards the big road, and I waited until they made over the hill down towards the road and they seemed to cease to make the racket. I takes these two boys and takes them out towards the big road and we went along until we got to within a hundred and fifty

or two hundred yards from the big road and came to
had been tended land. Back from the tended land on
side of it there were pines. We goes over and gets
pines over the fence. My dress was sort of light looki
was afraid to stand up. I sit down in the pines and th
stood up where they could see the road plain and the me
along from my house, talking along like one going from
tion ora muster and the road was thick with them. I g
them as they went.

Q. How many do you think there were? A. I c
how many there were but there was a chance of th
appeared like the biggest body of them was going
Leasburg. From the appearance they went to Leasbu
is they were going south.

Q. When was this last time that they were there?
remember.

Q. What year—was it last year or when? A. It
May. They were there on Monday night and the nex
night they came back.

Q. When did you leave there? A. I left there in
of May, I think.

Q. What did you leave there for? A. I left becau
afraid of the Kuklux; my husband was gone two wee
left me there to take care of the things. I never sta
house a night—I laid out when I didn't stay in the
ing houses for two weeks, and I couldn't stand it any
so I had to come away.

Q. You laid out in the woods a good deal of the ti
Yes, sir, staid in thickets and old fields.

Q. How many children did you have with you?
one. I had to carry it with me.

Q. How old is he? A. Eight years old coming nin
*Cross-Examination, waived.*

Mr. SMITH. I propose to read a paragraph of the
of August 2, 1870, in the words following:

"(Editorial by telegraph)"

"LIES LIKE A THIEF."

"The governor has been lying on us us for twelve months; "his profligate son and organ lies on us to-day by calling us a "Kuklux. If we are, why don't the pumpkin faced rascal "arrest us? We defy and dare him to arrest."

Mr. SMITH. I also read another paragraph from the *Sentinel* of August 3d, in the words following:

"TO GOVERNOR HOLDEN.

"HILLSBORO', August 3, 1870.

"GOV. HOLDEN: You say you will handle me in due time. "You white-livered miscreant, do it now. You dared me to "resist you, I dare you to arrest me. I am here to protect my "family from the jacobins of your club, after shooting powder "in the face of Mrs. Turner, threw a five pound rock in her "window which struck near one of my children. Your igno-"rant jacobins are incited to this by your lying charges against "me, that I am King of the Kuklux. You villian, come and "arrest a man, and order your secret clubs not to molest "women and children. Yours with contempt and defiance— "*habeas corpus* or no *habeas corpus*.

"JOSIAH TURNER, Jr."

Mr. SMITH. These are read for the purpose of showing the animus of the articles. I read one other piece from the same day, of August 2, in the words following:

"HOLDEN'S ARMY DESERTING HIM.

"We are glad to learn that many of the misguided men who "accepted armed service under the petty despot Holden, are "deserting his armies in large number. We are not surprised

"at this; we trust that most of these men have learne
"Holden's purpose is not only unlawful, but that he is a
"upstart, a petty despot who provokes a row and perp
"crimes like a drunken, insane bully on a muster d
"which in due course of time, he will have to account
"bar of justice. In our judgment this dirty fellow Hold
"have to account for his crimes and his accomplices as
"We hope the people will feel it their duty to make hi
"them answer until the demands of the law and justi
"satisfied so far as they can make restitution."

AARON D. JENKINS, *a witness re-called on behalf respondent, testified as follows:*

By Mr. SMITH:

Q. Do you know whether there were any funds in the ury from early in March, 1870, to the summer whe military movement took place—funds I mean to spare t those troops? A. I don't think there was any general

Q. When did the funds begin to come in? A. I thin first was the dividend of the North Carolina railroad.

Q. When was that, was it in June, July or what? was about that time, I don't recollect what time.

Q. Was it after the regular meeting of stockholders I recollect that Governor Holden sent for me by his s at the National hotel on one occasion sometime befo troops were called out. I don't recollect how long. I to his office and he asked me if there were any funds treasury——

Mr. MERRIMON. I object to that.

Q. You need not go through the details of that, but did you tell him that you would have any funds to p those soldiers? A. Well, I was going to state that him then that I did not know of any until that div would come in.

Q. When was that? A. That was sometime befor troops were called out.

Q. How long before? A. Well, it just occurred to me a few months ago. I have not studied about it. I know it was sometime before the troops were called out.

Q. Do you remember whether it was in the months of June or July? A. No, sir, I don't remember.

Q. At all events the funds that you speak of come in from the dividends of the North Carolina road? A. Yes, sir.

Q. You think that was the first money you got after early in March? A. Yes, sir, I think it was the first funds we got that we could use for general purposes.

Q. Do you know whether Kirk had his family here in North Carolina with him? A. I do not except from hearsay.

*Cross-Examination.*

By Mr. MERRIMON:

Q. Where was the special tax money during all last spring—the spring of 1870? A. I think the assembly had used it.

Q. They hadn't used it all, had they? A. There perhaps was some in the treasury.

Q. Wasn't there a good deal in the treasury? A. I don't remember.

Q. Don't you know that the legislature passed an act directing that that special tax money be paid out to satisfy coupons of special tax bonds? A, Yes, sir.

Q. Don't you know that they also passed an act requiring that this special tax money should be used for general purposes.

Mr. BOYDEN. The law will show that.

Mr. MERRIMON. I know the law will show that, but I want to call it to his attention.

A. Yes, sir, I think that was the case.

Q. Then it was in the treasury for general purposes. You were using it for general purposes weren't you? A. I am not sure, but I think it had been near about all used.

Q. You ought to have looked into it before you came up here to testify to this matter? A. No, sir, I did not know it until a few moments ago. There have been so many changes

in the treasury that it is almost impossible to tel
referring to the books.

Q. You don't know how it was? A. No, sir.

Q. You don't know how much money there v
treasury, whether much or little—you don't remen
At that time?

Q. Yes, at that time—I mean during the spring
You cannot undertake to tell what amount there v
treasury? A. Nothing except from what I recollect
told Governor Holden, that there were no funds
dividend came.

Q. [By Mr. Graham.] That dividend was not dec
July was it? There was an uncertainty that there
any dividend until there was one? A. I don't reme
I think the dividend was declared before.

Q. Let me refresh your recollection—don't you
that there was about $317,000 turned over for genera
about the first of March, 1870, under that act.
recollect the amount.

Q. There was a large amount? A. A large amou

Q. Well, from the first of March up to the day yo
talking to the governor, you had not spent all that
you? A. We didn't have it, or I shouldn't have told
there would be no money. I recollect very distinc
told him there was not any money that I knew o
could use for general purposes, until the dividend ca

Q. When was that? A. It was sometime b
troops were called out.

Q. How long before? A. I don't remember ho
was.

Mr. BOYDEN. I would state, Mr. Chief Justice
ators, that so far as we know at present, we think our
is closed; but owing to the illness of one of our bro
hope that if anything be deemed important should co
knowledge by to-morrow morning that we may be per
offer it, but we think we shall not trouble the se

further evidence. There may be some facts that have escaped us. We would like to reflect upon this matter and to consult and to ascertain whether we have put in all the evidence which we intended to introduce. We think, however, that we have done so.

Mr. MERRIMON. We offer, Mr. Chief Justice and senators, a transcript of the record of the criminal docket of Caswell county beginning in October, 1869, and embracing the first term of 1870.

The transcript, with the exception of a certain part of the certificate of the clerk, which, after discussion, was stricken out in the words following:

STATE OF NORTH CAROLINA,
Caswell County.

Be it remembered that on the 4th Monday after 1st Monday in March, 1869, a superior court was began and held for the county of Caswell at the court house at Yanceyville, Hon. A. W. Tourgee, judge of the 7th judicial district of North Carolina, presiding.

Mr. Solicitor Bulla appears and prosecutes on behalf of the state, when the following proceedings were had.

| | | |
|---|---|---|
| 6 | State *vs.* John L. Taylor. | Indictment Nuisance. *Nol. pros.* with leave. |
| 13 | State *vs.* Charles Hodges. | Indictment Larceny. Verdict guilty, jug't suspended. |
| 26 | State *vs.* Wm. H. Henderson. | Indictment A. & B. *Nol. pros.* with leave. |

| | | |
|---|---|---|
| 27 | State *vs.* Paul Hamlet. | Indctment Larceny *Nol. pros.* with lea |
| 28 | State *vs.* Bird Smith. | Indictment A. & I *Nol pros.* with leav |

STATE OF NORTH CAROLI
Caswell Co

I. H. F. Brandon, clerk of superior court of Caswell aforesaid, do certify that the foregoing is a true copy fr record of the superior court of said county, spring term as the same remains in my office, and I further certify t defendants in numbers 13, 27 and 28, are colored, and t 6 and 26 are white.

In testimony whereof I hereunto set my hand and a seal of said court, the 9th day of March, 1871.

H. F. BRANDON, C.

STATE OF NORTH CAROLIN
Caswell Co

Be it remembered that at the superior court began ar for the county of Caswell at the court house in Yanceyv the 4th Monday after the 1st Monday in September, his Honor A. W. Tourgee, judge of the 7th judicial of North Carolina, not having arrived by 4 o'clock p. m. t said court, J. C. Griffith, sheriff of said county, adjourn court until Tuesday morning 5th October, 1869, at 10 c

Tuesday morning October 5th, 1869. Court met acc to adjournment and was opened by his honor A. W. To judge, presiding. J. R. Bulla, solicitor 7th judicial appears and prosecutes on behalf of the state.

At the aforesaid term the following proceedings were l

| | | |
|---|---|---|
| 1 | State<br>*vs.*<br>Charles Fowler,<br>Frances Huskey,<br>Madison Huskey. | Indictment Larceny.<br>*Nol. pros.* as to Frances and Madison Huskey.<br>Jury sworn, verdict not guilty as to Fowler. |
| 2 | State<br>*vs.*<br>David Howard,<br>James Howard. | Indictment A. & B.<br>Plea guilty.<br>Judgment suspended on payment of cost. |
| 4 | State<br>*vs.*<br>Lea Howard,<br>James Howard. | Indictment A. & B.<br>Plea guilty.<br>Judgment suspended on payment of cost. |
| 11 | State<br>*vs.*<br>John Burton. | Indictment A. & B.<br>Plea guilty.<br>Judgment suspended on payment of cost. |
| 22 | State<br>*vs.*<br>Charles Poteat. | Indictment A. & B.<br>Plea guilty.<br>Judgment suspended on payment of cost. |
| 23 | State<br>*vs.*<br>A. J. Craft,<br>Van Craft,<br>Rob't Wright. | Indictment A. & B.<br>*Nol. pros.* |
| 27 | State<br>*vs.*<br>Nat'l Johnston. | Indictment A. & B.<br>*Nol. Pros.* with leave. |

| | | |
|---|---|---|
| 30 | State<br>*vs.*<br>Charles Walker,<br>Andrew Walker,<br>Harry Gooden,<br>Anderson Graves. | Indictment Riot.<br>Deft's Plead guilty.<br>Judg't suspended on t<br>payment of cost. |
| 34 | State<br>*vs.*<br>Cornelius Willis,<br>Jefferson Willis. | Indictment Larceny.<br>Jefferson Willis pleads g<br>Judg't suspended on pay<br>of cost of both defenda<br>Dismiss'd as to Cornelius |
| 41 | State<br>*vs.*<br>James Alverson. | Indictment A. & B.<br>Plea guilty.<br>Judg't suspended on pay |
| 49 | State<br>*vs.*<br>Leyburn Gillispie. | Indictment A. & B<br>Plea guilty.<br>Judg't suspended on pay |
| 50 | State<br>*vs.*<br>Jack Robertson. | Indictment Larceny<br>Plea guilty.<br>Judg't suspended on pay |
| 51 | State<br>*vs.*<br>Tilman Brown. | Indictment Larcen<br>Plea guilty.<br>Judg't suspended on pay |
| 52 | State<br>*vs.*<br>Jno. D. Long. | Indictment A. & I<br>Plea guilty.<br>Judg't suspended on pay |

| | | |
|---|---|---|
| 66 | State *vs.* Belle Moore. | Indictment A. & B. Plea guilty. Judg't suspended on paym't cost. |
| 67 | State *vs.* Benj. Willis. | Indictment A. & B. Plea guilty. Judg't suspended on paym't cost. |

STATE OF NORTH CAROLINA,
CASWELL COUNTY.

I, H. F. Brandon, clerk of superior court of Caswell county aforesaid, do certify that the foregoing is a true copy from the superior court of said county, fall term 1869, as the same remains in my office.

In testimony whereof I have hereto set my hand and affixed the seal of said court this 9th March, 1871.

H. F. BRANDON, C. S. C.

STATE OF NORTH CAROLINA,
CASWELL COUNTY.

Be it remembered that on the 4th Monday after the 1st Monday in March, 1870, a superior court was began and held for the county of Caswell, at the court house in Yanceyville, Hon. A. W. Tourgee, judge 7th judicial district, presiding, J. R. Bulla, solicitor of said district, prosecuting in behalf of the state.

His honor not being present to open and hold court the sheriff adjourned court until Tuesday morning at 10 o'clock.

Tuesday morning, April 5th, 1870, Court met according to adjournment. Present, his honor A. W. Tourgee, judge, presiding, when the following proceedings were had :

| | | |
|---|---|---|
| 4 | State *vs.* Henry Dorset. | Indictment Larceny. *Nol. pros.* with leave. |

| | | |
|---|---|---|
| 5 | State<br>*vs.*<br>J. C. Griffith,<br>J. W. Stephens. | Indictment Affray.<br>Judg't suspended on paym' |
| 7 | State<br>*vs.*<br>Jas. L. Borland. | Indictment A. & B.<br>*Nol. pros.* |
| 8 | State<br>*vs.*<br>Augustus Atkinson,<br>Geneva Peters. | Indictment F. & Adulter<br>*Nol. pros.* with leav |
| 10 | State<br>*vs.*<br>Nelson Lea,<br>Sam'l Walker,<br>Stephen Walker,<br>Mangum Watson. | Indictment Larceny.<br>*Nol. pros.* with leave |
| 15 | State<br>*vs.*<br>Hugh Dix. | Indictment A. & B<br>*Nol. pros.* with leav |
| 16 | State<br>*vs.*<br>Nelson Fuller. | Indictment A & B.<br>*Nol. pros.* with leave |
| 17 | State<br>*vs.*<br>Green Chapen. | Indictment A. & B.<br>Defendant pleads guilt<br>Judg't suspended on payn<br>cost. |

| | | |
|---|---|---|
| 18 | State *vs.* Jack Hatchett. | Indictment Malicious mischief. Plea guilty. Judg't suspended on payment cost. |
| 21 | State *vs.* Thomas May. | Indictment Larceny. *Nol. pros.* |
| 22 | State *vs.* Jack Law. | Indictment Larceny, *Nol pros.* with leave. |
| 23 | State *vs.* George Neal. | Indictment A. &. B. Plea guilty. Judg't suspended on payment of cost. |
| 24 | State *vs.* Iverson Walters. | Indictment Larceny. *Nol. pros.* with leave. |
| 26 | State *vs.* Martha Motley. | Indictment Larceny. *Nol. pros.* with leave. |
| 29 | State *vs.* Wm. P. Hooper. | Indictment A. & B. *Nol. pros.* with leave. |
| 31 | State *vs.* Fred Gunn. | Indictment Larceny. Plea guilty. Judg't suspended on paym't cost. |

| | | |
|---|---|---|
| 32 | State *vs.* Fred Gunn. | Indictment Larceny. *Nol. pros.* |
| 39 | State *vs.* Susan Perkins. | Indictment Larceny. Plea guilty. Judg't suspended on paym't |
| 44 | State *vs.* Wm. Mann. | Indictment A. & B. Dismissed on payment of |

STATE OF NORTH CAROLINA,
Caswell Coun

I, H. F. Brandon, clerk of the superior court of Ca county aforesaid, do certify that the foregoing is a true from the record of the superior court of said county, spring t 1870, as the same remains in my office.

In testimony whereof I hereunto set my hand and affi seal of said court the 9th day of March, 1871.

H. F. BRANDON, C. S.

We now offer the affidavit of George W. Kirk made the arrest of Samuel P. Hill, L. L. Patten and others, in c to obtain a bench warrant.

The CLERK proceeded to read the affidavit for the info tion of the court.

Mr. SMITH. We don't see what relevancy this affi has? A. It is made subsequent to all the proceedings w are the subject of inquiry in this trial.

Mr. GRAHAM. There was an endeavor here to show the conduct of Burgen had been disapproved by the gover A letter has been read showing that after he was charged hanging a man, the respondent undertook to administer s

species of reproof. We offer this for the purpose of showing that after the failure to hold in prison when the writ of *habeas corpus* was enforced and the governor could no longer hold these men in custody under military authority, Burgen a foreigner from outside of the state and outside of the county where these offences were alleged to have been committed, is the only man who comes forward to make an affidavit for the purpose of having them committed for trial in the civil courts.

The CHIEF JUSTICE. At what time were these affidadavits made?

Mr. SMITH. This affidavit is dated the 20th day of August.

The CHIEF JUSTICE. What is the interval between that and the alleged arrests of Burgen?

Mr. GRAHAM. The alleged arrest ot Puryear was on the 22d this was on the 20th.

The CHIEF JUSTICE. How do you distinguish in principle between the two? They are both after the other proceedings.

Mr. GRAHAM. We alleged that Burgen was still in the military service. It is alleged on the other side, that the respondent had disapproved of his conduct prior to that time. We allege that up to that time he had not disapproved of it and that he became the prosecutor for the purpose of having these men arrested and carried into the civil courts, and that several days afterwards these prisoners were not discharged from custody and that just as soon as they were and they withdrew the writs of *habeas corpus* and the prisoners were out of military custody an attempt was made to bring them in arrest under the civil process.

Mr MERRIMON. I think, Mr. Chief Justice and senators, that the evidence is competent on this ground. These articles all together charge that the whole military proceeding was unlawful from the beginning and that there was a general conspiracy consisting of the respondent and hese troops—and his aiders and advisers to oppress and

outrage the people of Alamance. This evi[illegible]
to show that they were not content with w[illegible]
had done while the military were in active ope[illegible]
they had gone there and had outraged the people b[illegible]
them without warrant of law and had defied the writ [illegible]
*corpus* that they had defied the chief justice of the [illegible]
that then they continued this oppression by bringing [illegible]
two of these chief instruments of the conspiracy for [illegible]
pose of commencing proceedings in the civil courts. [illegible]
the evidence competent as a part of this conspira[illegible]
permeates all these articles. The conspiracy is not [illegible]
terms, nor is it necessary to do so, but this is a p[illegible]
transaction taken altogether with which the resp[illegible]
charged in the articles of impeachment.

Mr. SMITH. I do not, Mr. Chief Justice, distinct[illegible]
stand upon what ground this affidavit is offered; but I [illegible]
that if it was not competent for us this morning to [illegible]
the respondent ordered the arrest of this man Burge[illegible]
two days of the date of the warrant, it will be wrong [illegible]
this evidence to be heard against the respondent. Th[illegible]
this morning ruled out the evidence of the order [illegible]
issued by the respondent on the ground that it was [illegible]
to the arrest of the parties and other military [illegible]
ceased. This paper is dated within two days [illegible]
think it is totally irrelevant, not only for this reason, b[illegible]
further ground that they do not in any way connect [illegible]
Holden with it as I understand. It is the affi[illegible]
alone with which so far as it appears the governor had [illegible]
to do.

Mr. MERRIMON. We have got two of Kirk's [illegible]
Burgen's affidavits here.

The CHIEF JUSTICE. In view of the decision [illegible]
ing the presiding officer does not see how he can [illegible]
these papers are competent evidence. There is no [illegible]
in the articles of impeachment presenting this particul[illegible]
and if brought in at all it must be by way of review

upon the same footing with the effort to show the order for the arrest of Burgen on the 22d. That was ruled out contrary to the opinion of the presiding officer, but it is consistent with the decision of the senate that this evidence shall also be excluded. The presiding officer decides that the evidence cannot be heard.

AUSTIN WHITSETT, *a witness on behalf of the managers, being recalled, testified as follows:*

By Mr. GRAHAM:

Q. You have been sworn in this cause heretofore. State to the court whether you are acquainted with the general character of John W. Long, who was examined here as a witness the other day? A. I am.

Q. Do you live in the county of Alamance, not far from Company Shops? A. Close to Company Shops.

Q. Was he brought up in the same neighborhood? A. Born and raised half a mile from where I live.

Q. Are you acquainted with his general character? A. I think I am, sir.

Q. State to the court what it is? A. Sir, it is infamous.

Q. In what respect? A. Well, it is bad for morals and for truth and honesty.

Q. He left the county some time since—some months back? A. Yes, sir.

Q. How long has his general character been of that description? A. It has been so ever since he was grown, and it was mighty bad when he was a boy growing up. He has been a bad boy all his life.

Q. Ever since he has been a grown man his character has been bad in the particular you have mentioned? A. Yes, sir?

Q. Are you acquainted with the general character of Eli Outlaw, a colored man who was examined here as a witness? A. I have some acquaintance.

Q. State whether you know his general character in that part of the county. A. So far as honesty is concerned, I have

heard him represented as not being an honest man.

The CHIEF JUSTICE. That is not answering tion.

Q. State whether or not that is his reputation? A. it is.

Q. He is regarded as a dishonest man? A. Yes,

Q. You stated on your former examination that called upon by Kirk—indeed impressed—to haul for the Shops to Caswell.

Mr. BADGER. We have not said anything about

Mr. BOYDEN. Are you going over it again?

Mr. GRAHAM. No, I am not going over it a wan't to remind the witness of the occasion.

Q. You went on the duty that Col. Kirk required of haul a load of his baggage to Caswell from the Shops whether, on that occasion. you saw the prisoners, and s liam R. Albright? A. Yes, sir, I saw all of them.

Q. State whether you had any conversation with A in relation to the prisoners, and if so relate what it w Well, after I had been there a little while, after I had conversation with Col. Kirk, he told me what he want to do ——

Mr. SMITH. I do not know what the gentleman to prove, but I desire to raise the question now whethe he enquires about is not collateral matter.

Mr. GRAHAM. No, sir, it is not collateral matte the question of the treatment of prisoners. Albright wa on his examination whether he did not have a very c able feeling in regard to this whole matter, whether he been the agent of the respondent. It was admitted that been. He was then asked whether at the time these pr were about to leave the Shops for Yanceyville he did no certain remarks about them indicating that they were "lost by the way," or were to be put to death summaril he denied it. We did that in order to qualify ourse examine this witness upon the question.

The CHIEF JUSTICE. The presiding officer did not hear the gentleman's [Mr. Smith's] objection.

Mr. GRAHAM. He stated it was a collateral matter.

The CHIEF JUSTICE. The counsel for the managers have asked the preliminary question.

Mr. SMITH. They have a right to interrogate a witness as to what the witness has said that relates to bias, but they have no right to ask him as to any facts collateral to the main question. The restriction is that you may interrogate a witness as to collateral statements made by him, but you must give him an opportunity to explain, specifying time and place; but whenever you go beyond his declarations and undertake to prove any collateral fact by him, then you are bound by his answer.

Mr. GRAHAM. This is not collateral matter.

The CHIEF JUSTIE. The presiding officer thinks the evidence is competent.

Q. State what Albright said upon the occasion when the parties were about to start, as I understand, for Yanceyville? A. It was a littlewhile before we started—not more than one hour, I suppose. He remarked to me—whether I was sorry to see the people in that fix. I told him I was, and he said this business that had been going on in our county was going to be ferreted out and that the perpetrators would be punished, and that there were some of them whom he thought likely would never reach Yanceyville, and he said he thought "that d—d scoundrel would be lost by the way-side," or "dropped by the way-side."

Q. Who was he pointing to? A. He was pointing to Adolphus Moore.

Q. That some of those prisoners would never reach Yanceyville, and "that d—d scoundrel would probably be lost by the way?" A. Yes, sir, those were his remarks. It was "d—d rascal" or "d—d scoundrel;" I think he said "d--d scoundrel."

*Cross-Examination.*

By Mr. BOYDEN:

old was he when he got this charact
tell exactly how old he was. It wa
school. He must have been some fift
older.

Q. He had all this character, had he

Q. What part of it had he then? A
of being a bad boy and taking thing
him from the scholars..

Q. How old is he now? A. I don
you his age.

Q. Well tell something like his a
twenty and thirty years old.

Q. He is but a little over twenty-on
is twenty-five.

Q. Do you think he is twenty-two?
must be close to twenty-two years old.
age is exactly. I could not pretend to

Q. How old would he have been wl
Most of his character was acquired sinc
it? A. Yes, sir, I suppose it was.

Q. Were you a good deal irritated
had to go to Caswell? A. Not at a
Burgen that I could not well go and he
while to say a word about; if I refuse
detachment for me—my horse and wag

Q. That is what I mean? A. I felt very much hurt about it.

Q. Who is it you heard talking about this character of Long and was it since the war or during the war? A. A general neighborhood talk.

Q. There has been a great deal of this talk, hasn't there, since he revealed upon the Kuklux? A. There has been a good deal of it and before it too.

Q. It has been very much aggravated since that, hasn't it? A. I don't know that it has been very much. People generally say that what he would say was worth nothing—of no account.

Q. I ask you as to this other man—you spoke of Eil Outlaw. Where does he live? A. He lived about Graham.

Q. When did he come there? A. I think he went there at the time of the war; he was then a hired hand in the government yard.

Q. Did you know anything about him before that? A. Not much, if any.

Q. You did'nt know his character before that? A. No, sir.

Q. This talk about him—is it since the war? A. Well, it was about the time the government yard work was going on. They said he was a good hand to work, but sort of slippery. Have heard that said.

Q. Who said that? A. It was said by different people.

Q. Can you name some of them? A. Mr. James Hunter, for one, I have heard speak of it.

Q. Do you recollect anybody else that you have heard talk about it? A. I think I heard Charley King speak of it.

Q. Those are the only two men you have heard speak about it are they? A. Well, I recollect them. I do not recollect any particular persons more than that, I haven't heard much said about that one way and another.

Q. If you have heard only two persons speak about it how can you undertake to say that is his character? Do you form any opinion of a man from what you heard two persons say

about it? A. I think I have heard more than those bu
not recall any more names.

Q. When did you hear them talking, since the w
No, sir, it was in the time of the confederacy when the
ment business was going on. He was driving teams
tending to the government work in the yards.

Q. And they thought he was a little slippery? A.

Q. That is all there was said about it? A. Yes, sir.

Q. Do you know anything about this organization c
Kuklux there? A. I don't know.

Q. [By Mr. Graham.] You were asked that ques
other day were you? A. Yes, sir, I was examined th
last month.

ZACCHARY T. DICKIE, *a witness called on beha*
*managers, being duly sworn, testified as follows:*

By Mr. MERRIMON:

Q. State to the court whether at any time during t
week in Alamance county you had any conversation w
Jacob A. Long in reference to John W. Stevens, and if
you had such conversation state what was said betw
about it?

Mr. SMITH. We object to that.

Mr. BOYDEN. Mr. Jacob A. Long has not yet b
upon the stand.

Mr. MERRIMON. We will put him upon the stan

Mr. BOYDEN. It is time enough to examine this
after he is put on.

Mr. MERRIMON. The only reason we put this
the stand to night is that we can get through with h
few minutes. We will introduce Long in the mornin

The CHIEF JUSTICE. The counsel for the resp
have a right to insist upon the regular order of proof.

Mr. MERRIMON. Boyd swore that Long told h
Dickie told him (Long) that the Kuklux had provided
dispatch of Stevens. I don't see now why we need

pone the examination of this witness until after the examination of Long. We will prove by this witness what he said to Long.

The CHIEF JUSTICE. But Long's is the primary evidence.

Mr. BOYDEN. In any other point it would not be evidence unless the other man—Boyd—is questioned upon that point. Mr. Boyd did not pretend to have had any conversations with this man in any shape or form.

Mr. GRAHAM. It goes to confirm the other witness however.

Mr. Manager SPARROW. It is not worth while to discuss it now.

On motion of Senator Graham, of Alamance, the hour of four o'clock and fifty minutes having arrived, the court adjourned until to-morrow at eleven o'clock.

## THIRTY-SEVENTH DAY.

SENATE CHAMBER, March 14

The COURT met at eleven o'clock a. m., pursuantt ment, Hon. R. M. Pearson, Chief Justice of the Supre in the chair.

Proceedings were opened by proclamation made in by the doorkeeper.

The CLERK proceeded to call the roll of senators following gentlemen were found to be present.

Messrs. Adams, Albright, Allen, Battle, Bellamy, Brown, Cook, Council, Cowles, Crowell, Dargan, Ep ming, Flythe, Gilmer, Graham, of Alamance, G Orange, Hyman, Jones, King, Latham, Ledbetter, Linney, Love, Mauney, McClammy, Merrimon, Mo head, Murphy, Olds, Price, Robbins, of Davidson, of Rowan, Skinner, Speed, Troy, Waddell, Warren, Worth—43.

Senator JONES moved that the reading of the j dispensed with.

The CHIEF JUSTICE put the question on the Senator Jones, and it was decided in the affirmative

Mr. Manager SPARROW. Mr. Chief Justice, some intimation yesterday by the counsel for the r that they might desire to introduce further testimony would be glad to know if they purpose doing so this If so we offer them the opportunity to proceed, as we close the testimony for the managers.

Mr. BOYDEN. I would state, Mr. Chief Justice have two witnesses one of whom had been summoned ington and was not here yesterday, but arrived las Carey, from Caswell, and another by the name of C will take but a few minutes to examine them.

CARTER CASSEY, (colored) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BOYDEN:

Q. How old are you? A. Fifty-five, I believe.

Q. Where do you live? A. In Alamance.

Q. Tell all you know about the matter of your chastisement—being whipped, who did it, when it was, how many there were and whether they were disguised or not? A. I don't know who it was did it.

Q. Tell all that took place. A. Oh, I was badly whipped.

Q. Tell about their coming there, where they found you and all about it? A. Well, they come in one night at the dead hour in the night. I was laying down asleep and they took a rail and just come and jobbed the door—bursted the door off and pitched right into the bed on top of me and gathered me and took me out—took me out to the railroad and they all had sticks and beat me with the sticks.

Q. How much did they beat you? A. Beat me about an hour I believe—that is my judgment [laughter]—it appeared like it was longer than that. My shirt was just as red as a red flannel shirt.

Q. Whereabouts did they beat you? A. They beat me on the head and shoulders and then stamped me on my breast with their shoe heels—stamped me on the breast and back.

Q. Tell how they were dressed?

Q. [By the Chief Justice.] What did they have on? A. They had on white gowns.

Q. How were their faces? A. They had red caps on, I could not see the face.

Q. How many were there do you think? A. There were five took me out of the house, and they said there were five more. They told me there were ten in the crowd.

Q. When was it? A. Last year—last fall was a year.

Q. Last fall a year? A. Yes, sir.

Q. It was in Alamance? A. In Alamance, sir.

Q. You don't know who any of them were? A. No, sir.

Q. Have they ever been punished about it in an
the men that whipped you? A. No, not as I know

*Cross-Examination.*

By Mr. MERRIMON:

Q. What did they whip you for? A. I told th
hadn't done anything.

Q. What did they say they whipped you for? A.
well we will let you know we are going around an
old radicals, and we know you are one.

Q. They didn't tell you that they whipped you f
Lewis Gerringer's sheep? A. They asked me if I h
it; I told them no. They asked me if I was accused
it; I told them I didn't know whether I was or not
said I was an old radical.

Q. Didn't they say they whipped you for steali
Gerringer's sheep? A. No, sir.

Q. Didn't you say they whipped you for stealing
Tickle's pigs? A. No, sir, I didn't either. [Laught

Q. What was said about the pigs? A. Nothing
about George Tickle or the pigs either.

Q. What about the sheep? A. They asked me if I
steal anything. I told them no. They asked if I
accused for stealing sheep. I told them I had heard
but I never done it. I told them that I heard such t
was accused of this here, but I never done it. But t
"We know you are an old radical, we are going to wl

Q. Didn't they whip you more than an hour
appeared to me it was more than an hour.

Q. Wasn't it two hours? A. It might have been
know for they almost killed me when they whip
They had a gun and knocked me down with it and I

*Re-Direct-Examination.*

By Mr. BOYDEN:

Q. You say they took your gun and knocked yo
A. Yes, sir.

Q. Knocked you senseless? A. Knocked me do

the gun and I lay there and they beat me, I don't know how long.

Q. Were you out of your senses? A. Yes, sir.

WILSON CAREY, (colored,) *a witness called on behalf of the respondent, being duly sworn, testified as follows:*

By Mr. BOYDEN:

Q. Where do you live? A. I live in the county of Caswell.

Q. Were you the one that was elected senator? A. No, sir.

Q. You were not elected? A. No, sir.

Q. You were elected to the commons? A. I was elected to the commons.

Q. I want you to state what you know about the state of feeling there in your county among the democrats and conservatives against the colored people and the white republicans—what was the state of feeling up there? A. At what time?

Q. Just before Stevens was killed? A. The state of feeling just before Mr. Stevens was kil'ed as far as I know was pretty bad between blacks and whites. A large portion of them I didn't see generally, but with a large portion there were bad feelings, and towards Mr. Stevens especially.

Q. State how it was after he was killed? A. After Mr. Stevens was killed the feelings remained. I didn't see much change between republicanism and conservatism. People had the feelings in the same way.

Q. The feeling continued the same? A. Yes, sir, as far as I know.

Q. State whether there was any talk to your knowledge of your running for the senate before Stevens was killed? A. No, sir, if there was I didn't know it.

Q. What was the talk after he was killed? A. After Mr. Stevens was killed?

Q. Yes? A. It was said by some of the colored people

there they nominated me f
do with it—it was the major
Q. There was nothing sai
vens? A. No, sir.
Q. Until after he was kil
ning you for the senate? A
Q. You hadn't heard any
A. No, sir.
Q. Do you know of any
any personal knowledge of a
knowledge.
Q. Did you see anybody
sir.
Q. Did you see any mark
Q. Tell who that was?
that was whipped there—I c
Q. [By the Chief Justice.]
he was whipped he came t
stripes on his legs and on hi
he wanted to show me furth
Q. How soon after he wa
it was a week, or soon after
and wanted to sell me some
wanted to sell me some feed
Q. Never mind about tha
Q. You say that the feeli
the democrats and conserva
Q. And it continued very
Yes, sir.
Q. And it was the same
you say? A. Yes, sir.
Q. Do you know anythin
family with him—his wife?
woman once riding through
she was his wife. I didn't

*Cross-Examination.*

By Mr. MERRIMON:

Q. I understood you to say that the feeling between the democrats and republicans was not general all over the country, but was confined to a portion of the two parties. Do I understand you correctly? A. Yes, sir, you understood me to say that. There is a difference between all people with regard to the feeling.

Q. Was the usual intercouse kept up by many of them—friendly intercouse—dealing with one another and visiting one another—how is that? A. Why, of course it was, but then I say there was a bad feeling between the republicans and conservatives, but I could not say it was with every person in the county. There were some.

Q. Could you say it was general? A. No, I could not say it was general with everybody.

Q. That was the political feeling, wasn't it? A. Yes, sir, political.

Q. This high feeling that you talk about was among the leading politicians on either side? A. Yes, sir.

Q. I ask you now which party is in the majority there? A. The colored people are in the majority.

Q. The republican party then you mean to say is in the majority? A. I mean to say the republican party has a majority.

Q. Don't you know that the colored people insisted, inasmuch as they composed the majority, and a large majority of the republican party there, that they were entitled to have a representation—a colored man in the senate and in the house both—didn't they contend that? A. I don't understand you,

Q. You say your party was in the majority? A. Yes, sir.

Q. I ask you now if the colored people did not contend that they were entitled to have a colored senator and a colored member in the house, too? A. Do I understand you that the colored people contended between——

Q. Among themselves, didn't the colored people insist that

to Mr. Stevens? A. The colored people after Mr. Steve killed, held that they were in a majority, and they had to have a member in the senate.

Q. Did they do it before his death? A. No, sir.

Q. Never? A. No, sir, I never heard of it.

Q. You are sure of that? A. I am sure of it.

Q. Did you come down to the state convention som after Steven's death? A. I did.

Q. You were here? A. Yes, sir.

Q. Were you along with Cook, a colored man and a pre A. I was.

Q. You say you did not know anything about the c people contending that they were to have a colored men the house and senate both? A. Before Mr. Steven killed?

Q. Yes? A. No, sir.

Q. I ask you if white people generally employed the c people upon their farms, and as domestic servants? A sir.

Q. I ask you further if there were a great many c men who leased land from the white people there on s A. I don't understand you.

Q. That they rented the land? A. I understand whe say they rent it, you mean they worked it?

Q. Yes? A. For a portion of the crop?

Q. For a portion of the crop? A. Yes, sir, but to lea land I don't know whether the colored in Caswell did.

Q. The colored men had horses, stock, mules, &c.? A sir.

Q. How do they get land now? A. I go and work man for a portion of the crop, with my horse. I got so for myself and horse.

Q. You call that renting do you? A. Yes, sir, I working on shares.

Q. Wasn't that state of things generally all over the c

between the whites and blacks—working for each other? A. Yes, sir.

Q. All over the county? A. Yes, sir, I worked with a man sometime ago. I would go on his farm and work for him at the same time, but we differ politically, and have a great deal of animosity towards each other politically.

Q. But still personally you would be friendly? A. Yes, sir.

Q. Outside of politics you would be friends? A. That is my way.

Q. Don't you know that that was generally done over the county, that the colored men would differ with the white men politically and work for them, and personally they were friendly? A. Yes, sir.

Q. And the colored men could vote as they pleased and they do it? A. I don't say so in every instance.

Q. Do you know any instance where he could not vote as he pleased, can you name one single case? A. Well, if I go into a detail and say who I thought and who told me that they did not vote and would not vote would be too wide.

Q. I don't want you to say only what you know. I ask you if you know any case now of your own knowledge where a colored man was not allowed to vote his sentiments? A. I don't know of any case of my own knowledge but I know that men have come to me and told me ——

Q. You know politicians have said so? A. I don't know about politicians, but frequently they said so; but of my own knowledge I don't know.

Q. You say Mr. Stevens was especially unpopular? A. Yes, sir—let me undestand you—unpopular.

Q. Yes, he was especially offensive to the democrats and conservatives? A. Yes, sir.

Q. I ask you if you don't know that they charged upon Mr. Stevens there that he had instigated the burning of barns, that that was the general complaint amongst the people in Caswell that he incited colored men to burn barns? A. You ask me my own knowledge.

Q. No, I don't ask you of your own knowledge, I as
that was not the complaint against him? A. Yes, t
alleged against him.

Q. Wasn't that very general? A. Yes, it was with t
servative party. Of my own knowledge I don't know.

Q. Did he instigate colored men to burn the barn
Yes, sir, it was said so.

Q. Do you know that any barns were burnt of yo
knowledge? A. No, sir.

Q. You don't know it? A. No, sir.

*Re-Direct-Examination.*

By Mr. BOYDEN:

Q. They asked you whether it was not charged that
was guilty of advising the colored people to burn barn
Yes, sir, it was charged by the conservative party.

Q. Was it generally understood there that he was m
on account of that? A. I do not know, I cannot say—
understand you.

Q. I ask you now among the republicans—the larg
tion of the county, was there any such opinion of Ste
that he had been engaged in advising the burning of
A. With the republicans?

Q. Yes. A. No, sir.

Q. What was his character among the republican
Well, his character was good among the republicans as
know.

The counsel for the respondent having called as w
John R. Stockard, William J. Stockard, Gideon L. Glea
Thomas Cummings, they were duly sworn.

Mr. BADGER. These constitute the remainder
witnesses. They have not submitted to an examination
of the court. We only desire to tender them to the oth
we will not examine them ourselves.

GIDEON L. GLEASON, *one of the above witnesses*
*as follows:*

By Mr. MERRIMON:

Q. Did you know a person in your county the last year by the name of John W. Long? A. Yes, sir.

Q. Did you know his general character? A. I knew him for the last four years. I moved to that county from Guilford about four years ago. I have known him for the last four years. I have frequently seen him and talked with him.

Q. Do you know what people say of him and think of him?

Mr. BOYDEN. The question should be do you know his general character.

Mr. MERRIMON. That is his general character.

Q. What was generally said? A. You want to know what the public opinion is.

Q. Yes, that is it? A. Well, he was not held in very high esteem.

Q. But will you say it was good or bad? A. I will have to say it was bad, sir.

Q. Bad for what? A. In morals, truth and honesty.

Q. State whether you saw a man by the name of Corliss when he had been maltreated, and if you say that you did, state whether he told you what he was whipped for? A. Yes, sir, I saw him.

Q. When?

Mr. SMITH. We have not been allowed to prove a word that Corliss said about the whipping.

The CHIEF JUSTICE. The presiding officer is of the opinion that this question is not competent.

Mr. MERRIMON. The gentleman is mistaken about that. What he said after he was whipped for a day or two, touching his condition was gone into.

The CHIEF JUSTICE. But they were not allowed to prove what he said as to who whipped him or what it was done for.

Mr. MERRIMON. They asked the witness and he did not know.

The CHIEF JUSTICE. No they were not allowe prove it.

Mr. MERRIMON. We will waive it then.

*Cross-Examination.*

By Mr. BOYDEN:

Q. Where do you live? A. At Company Shops.

Q. Were you there the night Corliss was whipped? Yes, sir, I was at home.

Q. Tell us all you know about it and what you heard t say—and all you know about it personally. Come out tell all about it? A. Very well, sir. The first that I k that anything was going on in town I was alarmed by wife coming to my gate and halloaing—halloaing mur I jumped up and ran out to the gate and met her. I did take time to fix my shoes or anything else, she told me —

Mr. BRAGG. Never mind what she told you.

Q. What was her condition—how was she dressed and l was her face as to blood? A. I could not see how it was in night.

Q. How was she dressed—just in her night clothes—th what I mean? A. I think she had on her clothes. I d think she had buttoned up all her clothes but they looked as if they were put on in a hurry.

Q. Were not her clothes in disorder, that is what I wan know—as if she had been just aroused out of bed in the n time? A. I think that they were not buttoned up. I think frock just hung on loosely and was not buttoned up.

Q. She was crying murder was she? A. Yes, sir.

Q. What did you do there? A. I had a talk with her.

Q. What else—did you go to his aid and try to catch men who had Corliss? A. I did not know where to go.

Q. That was the reason was it? A. That was one of reasons.

Q. Tell the other? A. The next one was I did not wan leave my wife and family.

Q. Why not? A. Well, they were a little alarmed by her halloaing murder.

Q. Scared, were they, and that was the reason was it that you did not go? A. That was one.

Q. Was there any other—tell the other? A. I didn't think I could do her any good and so stated to her.

Q. Why didn't you think you could do any good? A. Well, she said there were five men had him and I did not think I and she could manage them.

Q. This was at the Company Shops, was it? A. Yes, sir.

Q. There were plenty of men in the town were there not? A. The ones usually there were there.

Q. You did not offer to raise any of them to go after these men or to go yourself? A. No, sir, I went back in the house.

Q. How many worked there in the Company Shops? A. I don't know.

Q. Were there fifty or a hundred?

Q. Plenty of men there were there not? A. I suppose there were fifty men maybe more in that town.

Q. And you didn't offer to go to her aid you say and she crying murder and you did not offer to go to the aid of Corliss? A. I did aid Mr. Corliss after he had returned but I did not go——

Q. I am talking about that night? A. That was the same night. I aided him that night.

Q. But I say you did not go to his aid to try and get him away from the five men that were whipping him? A. No, sir. I did not.

Q. Do you belong to this organization? A. No, sir, I don't belong to any secret society.

Q. Do you know of any more outrages that were committed by the Kuklux? A. Not of my own knowledge.

Q. Did you ever belong to the "White Brotherhood"? A. No, sir.

Q. Nor to the "Constitutional Union Guard?" A. No, sir.

Q. Nor to the "Invisible Empire?" A. No, sir.

Q. None of them? A. I don't know anything ab
sir

Q. [By Mr. Graham.] Nor the Union League?"
sir, nor the Union League. I don't belong to any
ciety.

Q. Do you know of anybody who did belong t
Not till since they came out and revealed it themselv

Q. You say you helped Corliss that night? A.
aided him that night.

Q. Tell us how and what his condition was an
know about it? A. Well, I suppose it was about ha
after his wife halloaed at my house. I heard some
loaing at the gate and calling me by my name. He
groan some and called me out there. I went out t
and it was Corliss. He asked me there to——

The CHIEF JUSTICE. Don't say anything wh

Q. What was his condition? A. Well I will tell
next. I had not seen his condition then.

Q. Very well? A. At his request I took him in
in the basement story of my house. I had a black
with me who was a carpenter. I told him to go out
a blanket and put it over him. He was cold and
clothes excepting his night shirt. I hung the bla
him, took him to the fire in the basement part of
where the black man was sleeping that night. I t
was somewhat exhausted and I got some brandy or
forget which, and gave him some and then sent the
down to his wife—she had gone there and I thought
possible for her to do something for him. I sent do
wife to come up and bring his clothes and get Mr. Cor
black man went and she came and she got him and
man went back with them down to her house.

Q. State his condition, how much he had been
what you saw of him. He was in his shirt you say;
of weather was it? A. The weather was tolerably

don't know that it was freezing weather, but it was cold weather and a man would get cold in that condition. After he got to the fire in the basement—I am not to say anything he told me, I suppose; only just what I saw.

Q. No, you may speak if he complained of suffering from his injury? He complained that he had been whipped.

Q. Did he complain much? A. He complained right smart and I didn't see any part of anything except his legs and his arms, and you may say his head. He had this blanket on him —I didn't examine his back or anything of the kind. I could see marks where he had been whipped.

Q. How about his head? A. From one side of that the hair was taken off. It looked like it was done with scissors and was blacked. He looked like he had been blacked, had had it rubbed over his face. He was about one half black and one half white. One leg I think was black, as well as I recollect.

Q. was there much alarm there that night. Didn't she scream very much? A. She alarmed me because I was asleep —of course it alarmed me.

Q. Did you see anybody moving? A. I did not go outside that night.

Q. Did you see anybody moving or hear anybody moving besides these men. A. I did not hear anybody that night at all outside my house, except Mr. Corliss and Mrs. Corliss and the black man that went home with them. I did not hear anybody.

Q. Did you hear them whipping Coliss? A. No, sir.

Q. Were the screams loud enough to rouse the town there? A. What, of his wife?

Q. Yes, sir? A. Pretty loud—as loud as she could hallow.

Q. And nobody came out did you say? A. I did not see anybody out.

Q. When he came in there and you saw his condition and thought he needed repose and needed some spirits, you then sent for his wife and made no alarm in the neighborhood and gave no information? A. No, sir, I did not go out.

Q. [By the Chief Justice.] You did not go
house you say? A. Not out of the lot, I went
house. I live nearly half a mile from the centre
There are not many houses right where I live.

Q. This end or the other? A. I live at the we

Q. [By Mr. Merrimon.] You say you lived a
of the town where very few persons lived? A.
west end of the town where there were no hous
in a thickly settled part of the town. It is beco
though, but it was not so then. It is half a m
centre of the town.

JESSE GANT, *a witness re-called on behalf
gers, testified as follows:*

By Mr. MERRIMON:

Q. Did you know a person last year in your c
name of John W. Long? A. Yes, sir.

Q. Did you know his general character? A.

Q. If so, for how long a time? A. I have kn
since he was born.

Q. What is his general character? A. He l
himself a very bad character in our settlement.

Q. For what? A. For almost everything tha
is a drunken man, a quarrelsome man, said to
man, a lying man, and pretty much the balance. I
bad. I have not heard anything good of Mr. Lo
all.

*Cross-Examination.*

By Mr. BOYDEN:

Q. You have been examined before? A. Yes.

Q. You are conservative—or democratic? A.

Mr. GRAHAM. He said that before, I believ

Q. When did Mr. Long get this character—
do you know? A. I think the first time I hear
ing was when he was quite a small boy. I under
some money from some other little boys ——

Q. I am asking for his general character and not for any particular thing? A. That was when he was a boy, and I have been hearing of it ever since.

Q. Are you a pretty bitter democrat? A. No, sir.

Q. Pretty bitter in your feeling? A. No, sir.

Q. You feel very kindly towards the republicans don't you, politically I mean? A. Well, it depends upon how they conduct themselves.

Q. Politically? A. There is a large portion of them if you will allow me to answer the question, that I have a very contemptible opinion of.

Q. That is what I supposed—pretty much the same opinion you have of Long I suppose? A. Yes, sir, politically there are a great many of them that I do have a most contemptible opinion of. That is so honestly.

WILLIAM WILKINS, *a witness called on behalf of the managers, being duly sworn, testified as follows:*

By Mr. MERRIMON:

Q. Where do you reside? A. Close to Company Shops.

Q. In Alamance county? A. Yes, sir.

Q. What is your age and business? A. I am going on sixty-seven years old.

Q. What is your business? A. Farmer.

Q. State to the court whether you knew a person in Alamance county during the last year, or at any time before that, by the name of John W. Long? A. Yes, sir, I have always known him.

Q. Do you know his general character? A. Yes, sir.

Q. What is it? A. It is bad enough.

Q. Bad for what? A. Stealing, lying, quarreling, fighting, whipping his father ——

Mr. BOYDEN. You need not talk such stuff as that.

The WITNESS. I thought you wanted to know all of it. [Laughter.]

Mr. BOYDEN. No, sir, he didn't ask any such thing.

The CHIEF JUSTICE. We want his general ch
A. That is his general character. He is quarrelsom

*Cross-Examination.*

By Mr. BOYDEN:

Q. You know what general character is? A. Yes,

Q. What is it? A. Aint I just telling it?

Q. No, I ask what it is. You say you know what i
I want to see whether you understand it? A. A
behave himself.

Q. That is what you mean? A. Yes, sir.

Mr. DOYDEN. You can just stand aside. [Laug

Mr. MERRIMON. We propose, Mr. Chief Justice
in a letter from the respondent to Mr. Badger of dat
18th, 1870, and a letter to George W. Kirk of the sam
Salisbury.

Mr. BOYDEN. I do not understand that that is
dence now.

Mr. MERRIMON. The presiding officer and th
will recollect that we offered testimony to show that
render of the prisoners to the chief justice of the state
voluntary on the part of the respondent, that he was
do it by the action of Judge Brooks. We offer thes
now. The counsel for the respondent have endeavored
what they contained. We offer these letters now to sl
he was expediting the matter, and how he delayed h
until the last moment.

Mr. BOYDEN. I am surprised that the gentlema
offer that now in reply. If they had any such evi
should have been offered in the first instance. There i
that we have said about it. The matter before Judg
was entered into very fully, and we have not replied t
now they propose to re-open that subject again. It i
incompetent.

Mr. MERRIMON. We were not bound to intro
the evidence at the outset that we might have introduc
were only bound to offer evidence until we thought

made out a sufficient case. Then upon the reply it was competent for us to strengthen our case if we deemed it necessary. They have contended in the argument, and they have even thrown into the case a little testimony for the purpose of showing, I suppose, that the governor's action was voluntary. We offer these two letters in addition to what we have already presented to the court to show that it was not voluntary, and that he put off his action towards the chief justice until the last moment. These letters were written as they show upon their face in a great hurry, and his action was precipitate. We think this evidence is competent in that view.

Mr. SMITH. Mr. Chief Justice, I desire to say that the gentleman is mistaken as to the rule or else we are at fault. The rule is that you stand upon that evidence which you offer in the first instance unless the defendant controverts some of it by his evidence. You make your *prima facie* case and stand by it, and upon the reply you can only offer evidence to impair that which was offered by the defendant, or it was impeached by the defendant, to strengthen your case. This was apart of their case in the first instance.

Mr. BRAGG. Mr. Chief Justice, I know of no such principle as the gentleman insists upon in criminal proceedings—none whatever. On the contrary it has been ruled time and again by the supreme court that in a state prosecution upon an indictment even for a capital offence, the prosecuting officer is called upon to introduce just so much evidence as he thinks necessary—in his discretion, and that he can afterwards introduce other testimony. I do not remember the cases, but I think the chief justice will remember, that it has been ruled time and again in the practice of the courts of North Carolina. Now, this is a criminal prosecution.

The CHIEF JUSTICE. Will you produce a case to that effect?

Mr. GRAHAM. I think in the case of Outlaw's will, which was not a criminal case.

The CHIEF JUSTICE. But that was not a criminal case.

The presiding officer does not remember of any cases in the principle stated by the counsel has been established.

Mr. BRAGG. I could produce case after case. A case was carried up by Mr. Moore, I think, from the co Edgecombe for the purpose of deciding that matter. recollect the name, however, because I am not very f with the names of the cases, but I recollect distinctly has been ruled not only once, but time and again. I su it was within the recollection of every lawyer.

The CHIEF JUSTICE. The presiding officer is familiar with the strict practice as he used to be, but h not recollect any case of the kind to which the gentleman

Mr. BOYDEN. I recollect distinctly, Mr. Chief J that it has been ruled in a capital case that the prose officer could stop just when he pleased without making case, but I recollect no authority whatever——

The CHIEF JUSTICE. The presiding officer do care to hear further discussion until the gentleman (Mr. produces his authority. We can meanwhile go on wi other evidence.

JOHN B. NEATHERY, *a witness re-called on behalf managers, testified as follows:*

By Mr. MERRIMON:

Q. Look at that book, and say what it is [handing a b the witness.] A. It is the record of the council of state.

Q. The journal of proceedings of the council of state Yes, sir.

Q. Have you examined it with the view to see whether is any memorial of any meeting of the council of state in ence to the military movement had by the governor las mer? A. I have examined it, and there is no record such meeting.

Q. Is there any memorandum there of any action council of state in reference to his declaring the count Alamance and Caswell in insurrection? A. There is n

Q. State to the court what became of the testimony given before the chief justice last summer by James E. Boyd? A. It was never in my possession, sir.

Q. Was it in the executive office? A. I understood that it was.

Mr. BOYDEN. Never mind what you understood—state what you know.

Q. Don't you know that it was there? A. I do not.

Q. Do you know that the evidence taken before the chief justice was generally there at one time? A. I know that some of it was there, but I cannot say what part.

Q. Was it the evidence as taken down by Mr. Martling? A. I cannot say that it was.

Q. Have you searched for it lately? A. I have, sir.

Q. Could you find it? A. I could not.

*Cross-Examination waived.*

JOHN RICH IRELAND, *a witness called on behalf of the managers, being duly sworn, testified as follows:*

By Mr. MERRIMON:

Q. Will you state to the court whether or not you at any time belonged to any organization called the White Brotherhood or Kuklux? A. I never have belonged to any political secret organization.

Q. State whether at any time you did anything to a colored man by the name of Samuel Garrison in the county of Alamance? A. No, sir, never in my life.

Q. I would suggest to you that this man Garrison has sworn that you did whip him? A. I never did.

Q. Do you know such a man? A. Yes, sir, I know him well. I have known him for fifteen years I suppose—ever since I was a boy.

Q. What is the character of that man Garrison?

Mr. BOYDEN. Ask him if he knows it.

Q. Do you know his character?

Mr. BOYDEN. General character?

A. Yes, sir, I know his general character.

Q. What is it? A. Well, it is bad.

Q. For what? A. Stealing.

*Cross Examination.*

By Mr. BOYDEN:

Q. Where do you reside? A. In Alamance cou
Company Shops.

Q. How far from Garrison's? A. He lived whe
he was whipped about a mile and a half from me.
something further now.

Q. But you and he were very familiar—knew e
well? A. Oh, yes, I have known him. He has w
me.

Q. And you lived about a mile and a half from h
I suppose a mile and a half—something like that dist

Q. You say you never belonged to any secret organ
A. I never did, sir, that is, political.

Q. What did you belong to? A. Well, I have bel
the Masonic order. I didn't belong to any Kuklux o
erhood, or Constitutional Union Guard.

Q. How soon did you see this man Garrison afte
said to have been whipped? A. I don't know. I
recollection now. I heard about the time of his being
but I don't remember. I suppose I saw him probably
few days, or a week or so.

Q. You heard about his being whipped? A. I
talked of.

Q. But you say you did not do it? A. No, sir, I h
ing at all to do with it.

Q. Do you know any of these men who belonged t
ganization? A. No, sir, only since those confessions h
made. I had no idea at the time.

Q. Do you know of any that have not made the

confessions who belonged to these organizations? A. I do not. That is the only way I know them by their confessions.

The CHIEF JUSTICE. State what you know yourself.

Q. Do you know of any other persons that have been whipped—have you seen the stripes upon them? A. No, sir, I never have. I have seen men that said they were whipped.

Q. I don't ask you that? A. I never have seen any marks.

ASA ISLEY, *a witness called on behalf of the managers, being duly sworn, testified as follows:*

By Mr. MERRIMON:

Q. Will you state to the court whether you know a man by the name of Samuel Garrison, a colored man in the county of Alamance? A. Yes, sir, I know him.

Q. How long have you known him? A. Well, I have known him, I suppose, ever since I have any recollection back. He is an older man than myself.

Q. He has sworn to the court that on one occasion you and Mr. Ireland gave him a severe whipping. I ask you whether you gave him any such whipping at any time in your life. A. Never, sir.

Q. Are you positive about that? A. I am positive of that.

Q. Are you a justice of the peace? A. Yes, sir.

Q. Do you know the character of this negro? A. Well, I suppose I do.

Q. What is it?

Mr. BOYDEN. Do you know his general character?

The CHIEF JUSTICE. He says he has known him since he was a boy.

A. He is an older man than I am—the black man is. I say I have known him from my earliest recollection.

Q. And you knew his general character? A. I think I do, sir.

Q. What is it? A. Well, in my neighborhood it is bad.

Q. Bad for what? A. Well, he is accused of being dishonest.

*Cross-Examination.*

By Mr. BOYDEN:

Q. How near did you live to him then? A
pose at that time I lived within from half a
quarters—at the time he alleges to have been l

Q. Did you see him shortly after he was said
whipped? A. Well, I couldn't say exactly t
days. It was probably less than a week, I thi

Q. Did you see any marks on him? A. No,

Q. But you heard directly after he was whi
heard on Monday that he was to have been whip
day night.

Q. Are you a justice of the peace? A. Yes,

Q. Were you then? A. Yes, sir.

Q. When was this whipping? A. I think
latter part of November, 1869, or the early part
I could not speak positively as to the month.

Q. You understood that the persons who whip
all disguised? A. Yes, sir, that is what I under

Q. Did you undertake to have them arrested,
who they were in any way? A. I did not.

Q. Do you belong to any of these organizatio
not, sir.

Q. Never have? A. Never have; never hav
any secret organization of any kind.

*Re-Direct-Examination.*

By Mr. Manager SPARROW:

Q. You stated that on Monday morning you l
was to have been whipped on Saturday night? A

Q. Do you mean to say that you heard on Mo
that he was whipped Saturday night, or was
whipped? What do you mean? A. I heard
morning that he had been whipped on Saturda
vious.

Mr. BOYDEN. That is what I understood hi

JACOB A. LONG, *a witness called on behalf of the managers, being duly sworn, testified as follows:*

By Mr. MERRIMON:

Q. How did you happen to attend this trial? A. I came here under a subpœna, sir.

Q. By whom? A. By the respondent.

Q. How long have you been here? A. I came here the 30th day of January. I have been here, with the exception of nine days, ever since.

Q. State whether at any time you belonged to any organization called the White Brotherhood, and if you say yes, give the court to understand your relation to it, and all you know about it. A. I was a member of the White Brotherhood.

Q. Where? A. In the county of Alamance. I was the chief of Camp Number 1, and by virtue of that chief of the county.

Q. State what was the object of that organization? A. The object of the organization, as I understood it, was for the mutual protection of its members; that whenever by the unanimous consent of one camp the camp adjoining would disguise themselves, pass through the limits of the camp that passed this resolution, making an exhibition of their persons in disguise, for the purpose of keeping the negroes from prowling around at night and committing petty larcenies, etc.

Q. State whether that organization took any obligation? A. They did, sir.

Q. Do you remember it, sir? A. I think I do.

Q. Look upón that paper and see if that is the obligation which you took and which you administered to others [a paper is handed the witness]? A. That is the obligation and the by-laws and the signs.

Q. Are you sure of that? A. I am.

Mr. MERRIMON. We ask now, Mr. Chief Justice, to have it read.

The CLERK proceeded to read the oath to which
referred, in the words following:

"You solemnly swear, in the presence of Almigh
"you will not reveal the man's name who initia
"what is now about to come to your knowledge; t
"not now a member of the Union League, Heroes
"Grand Army of the Republic or any political
"whose aims or tendencies are to destroy the right
"or elevate the negro upon an equality with the
"and that you are opposed to all such principles:
"God.

"You furthermore solemnly swear that you wil
"any of the secret pass-words, signs, grips or tok
"brotherhood. That you will not initiate, or al
"initiated if in your power to prevent it, any men
"Union Leagues, Heroes of America, Grand Ar
"Republic, or any one holding radical views or opini
"if any member or his family is in danger, you w
"him or them of such danger, or if necessary g
"assistance. That if any member should reveal
"secrets, orders, acts or edicts, you will assist in pun
"in any manner the camp may direct or approve
"you God.

"BY-LAWS.

"1. Every candidate for initiation into this b
"shall be elected by a unanimous vote of the camp
"he resides.

"2. Every member shall be provided with a disg
"he shall wear while in camp.

"3. Every member shall obey all calls or summon
"chief of his camp, if in his power so to do.

"4. Not more than two meetings shall be held in
"place, except by unanimous vote of the camp.

"ALPHABET.

"A B C D E, &c.
"K L M N O, &c.

"Signs of Meetings.

"AT DAY

$\frac{4|3}{9}$ 4 × 3—12th at 9 o'clock.

"AT NIGHT

$4\overset{3}{)}9$ 4 × 3—13th at 9 o'clock."

Q. State whether there was any obligation growing out of any explanation of the oath given, or of any explanation of the purpose of this brotherhood to resist or throw off the existing state government of this state, or of the United States? A. There was not.

Q. State whether there was any obligation by virtue of that oath, or any explanation given of it or of the purposes of this brotherhood, upon any of its members to protect its members by perjury, or finding false verdicts in courts of justice? A. That was no part of the obligation, nor any obligation, nor any part of the instructions given, either in writing or orally.

Q. I will state to you, sir, that Mr. James E. Boyd has sworn before the court that you initiated him into this brotherhood, and he has sworn that, either in the oath which you administered to him, or the explanation of the oath, or the purposes of the brotherhood which you stated to him, he was bound to overthrow the republican party if need be by force.

Mr. SMITH. I do not think that is the proper way to examine the witness. They have a right to ask this witness as to facts, but not to assume that somebody's testimony was so and so, and then ask, "Is this true?" They have the right to prove the facts as they really are, and if there is any conflict, it will appear.

The CHIEF JUSTICE. The presiding officer
how the counsel can get at the fact, except by re
Boyd said.

Mr. MERRIMON. I read from the testimony o
Boyd, upon pages 1611, 1612 and 1613, of the prin
of this trial, in the words following:

"Q. I understand you to say that the oath whi
"read was the one which Wm. Long administered t
"office? A. I think it is. Q. Have you any doub
"A. I think I have not. There may be some diffe
"but the substance is about the same. Q. You swea
"cally that this contains the substance in all partic
"oath you took? A. I think it does. Q. Do you swea
"that this clause was in it: "That you will never
"evidence against any member of the brotherhood?"
"not swear that these words were there, but they
"oath or the explanation. Q. Will you swear that th
"stantially in the oath? A. I think it was in the e
"or the oath. Q. What do you mean by the ex
"A. After the oath was administered there was a l
"nation in regard to the manner of operation, and
"and responsibility of members, &c. Q. Did the
"you to that explanation? A. I understood it so.
"there a clause in the oath binding you to observe
"nation? A. I cannot say that there was. Q. Yo
"consider the oath bound you to observe the explana
"I thought so. Q. Not to give state's evidence
"member? A. I thought so. Q. Do you swear fu
"that either the oath or explanation required you to
"civil and political advancement of the negro, and
"be by force? A. I think it did. Q. Do you swear
"it? A. Yes, sir. Q. Did you furthermore swear
"would swear to lies if any of the brotherhood should b
"with crime in court in order to have them acquit
"they were charged according to the law? A. I und
"was not to reveal the secrets of the organization u

"circumstances. Q. Answer my question? A. That was my "understanding. Q. I understood you to state to "the court that you swore in the oath that you would "commit perjury in order to successfully defend a member "of the order from a charge? A. I don't swear that was in "the oath. Q. Did you learn that from the explanation? "A. I swore not to reveal the secrets of the organization "under any circumstances. Q. How did you get your "understanding? A. From the persou who initiated me. Q. "Who was that? A. Mr. Long. Q. Did he tell you if you "were called into court to testify against a member of the white "brotherhood you were to swear to a lie in order to prevent "his conviction? A. He did not. Q. Where did you get "your information from? A. From the words of the oath and "explanation, because I considered that no man could go into "court and divulge the secrets of the order. Q. You did? A. "I understood that that was one of the instances under which "he could divulge the secrets of the order if he was put on the "witness stand. Q. I want to know if you learned from Mr. "Long that under the oath or the explanation that he gave you, "if you were called upon to testify against a member of the "white brotherhood you were to testify falsely? A. I can only "say what I said before that having taken the oath to become "a member of the organization, I could not reveal the secrets "under any circumstances. Q. Did he tell you so? A. That "is a part of the oath that I would never reveal the secrets. "Q. Did he tell you then that if you were called into court "you would have to swear falsely? A. No, sir. Q. Did he "say anything, or that he left that impression? A. I inferred "that from the oath. Q. You didn't get any instructions from him "to that effect? A. No, sir. Q. Did you get it from any instruc- "tions from anybody in the white brotherhood? A. I cannot "say that I did. Q. What you have stated you were bound to do "as a member of the White Brotherhood in favor of a member you "infer from the language of the oath? A. And from the nature "of the organization, because the plan was that the secrets were

"not to be revealed. Q. Was that an inference of y
"Yes, sir. Q. You inferred it from this oath? A
"Q. Nobody told you so? A. No, sir, they did not
"Long or anybody else in the neighborhood tell you
"were on a jury at any time when a member of th
"hood was charged with crime you were to find a fal
"A. They did not? Q. Then you inferred that
"oath? A. Yes, sir, and from the nature and plan
"ganization. Q. You got that as an inference? A
"Q. Nobody ever told you so? A. No, sir, I cann
"they did. Q. When did you join the organization

Mr. BOYDEN. This reading very manifestly it is improper to examine the witness on any suc that.

The CHIEF JUSTICE. You have aked him wl administered. You can now ask him what expl gave.

By Mr. MERRIMON, (resuming.)

Q. You have heard that read. I ask you now wl fact—what oath you administered to Boyd, and wh tion you gave him touching his duties as a meml brotherhood? A. The oath I administered to Mr. I one that has just been read by the clerk. The e given to him was the same as that given to all mem they were initiated.

Q. [By the Chief Justice.] State what that was? explanation referred to their duties as members and ner of holding the meetings, and the manner of the and such other incidental things. There was nothi explanation at all about swearing falsely, getting on bringing in a false verdict or anything of the kind, a gave any explanation to any man.

Q. State whether you said anything from which inference could be drawn? A. I did not. The infe a false one; it could not be drawn from anything I s

Q. State whether at any time this brotherhood

solved and if so under what circumstances? A. The White Brotherhood was disbanded in May or the early part of June, 1869. I called a meeting of the county and there I told the members that it was rumored and charged in the public prints that the Kuklux organization or the White Brotherhood was committing crime, and I cautioned them against doing anything of the kind and appointed a meeting of the chiefs two weeks from that day. At that meeting it was agreed——

Q. Where was that meeting held? A. It was held between the town of Graham and Haw river station about half way—about one mile from the town of Graham.

Q. Speak of each meeting and state where they were held and at what time? A. The meeting of the county at which this caution was taken was between the town of Graham on the public road leading south and Mr. Corliss' residence about two miles from the town of Graham.

Q. What number was present? A. I don't know any statement would be mere guess.

Q. Give your best impression? A. My best impression is that there were about twenty or twenty-five, there might have been thirty or might not have been more than fifteen.

Q. What number were present at the next time? A. The meeting of the chiefs? There were ten or twelve.

Q. What was done there? A. The organization was disbanded.

Q. What do you mean by disbanded? It was agreed by the officers that there should never be another meeting of the brotherhood, that there should never be another member initiated and they were to discontinue holding any meetings at all.

Q. What was the reason of that dissolution of the organization. What was the object—what was it about? A. Well, there were some attempts—I was impressed with the idea that there was some attempt to prevent its object and to use it for the commission of crime, and there was also a bill passed in the legislature making the going masked a felony, and for that reason it was disbanded. At the time it was organized

and during the time it was in existence, there was law making going masked or disguised a felony.

Q. State whether any proposition was made at any make the organization political in such a way as to trol of the politics in Alamance county, and if so, wh that proposition and what became of it? A. At meeting of the White Brotherhood there was a pro made by Mr. Boyd to make it a political organizat have it to be understood that whenever a convention people was called, some member should be nominated chairman of the meeting, and that he might appoi members on the committees, and they should make the inations of those within the brotherhood. That was ted to the members present and voted down.

Q. Who voted for it? A. I don't remember a except Mr. Boyd. There were several who voted for it half dozen members.

Q. You say Boyd was author of it? A. Yes, sir, h the motion.

Q. Did you hear of the death of Mr. Stephens, of G A. Yes, sir.

Q. State whether at any time shortly after that, any conversation with Mr. Boyd in reference to his and if you say you did, state that conversation as fully can? A. A short time after the news of Mr. Stephens reached Graham——

Q. Make that date as definite as you can as to time? think on Monday or Tuesday following the day on wh was found dead, Mr. Boyd came to my room and broug news to me. We were talking about it in the room, a walked out of the room going up the street, and my impr is that we stopped on the side of the street and were t about it. He expressed his surprise that such a n would occur in the day time in a court house and nob caught at it, and also his surprise that anything of th should occur as that Stephens should be murdered.

replied to him that I was not as much surprised as he seemed to be from the fact that a short time before that Mr. Dickey, who resided in Yanceyville, had been over to Graham, and had told me that Stephens had made himself very odious to the people of Caswell, and that it was understood there that he had advised the negroes to burn the barns of the county in case there were any Kuklux demonstrations. He said that he would not be surprised if there were any Kuklux there, if they would attend to his case. That was the substance of my conversation. To my recollection, Mr. Dickey's conversation came up—at the time he was in Graham—in regard to the burning of the barns. We were talking about that and about the burning of the barns in Orange, and about some negroes that had been hung over there, and this was an accidental remark in that conversation. I thought no more of it, and should not had not the news of Stephens' death reached Graham.

Q. State whether you made any intimation to Mr. Boyd that Mr. Dickey had told that the Kuklux had made provision for the dispatch of Stevens? A. I never did, sir.

Q. Do you know anything about it yourself? A. About the murder of Stevens?

Q. Yes, sir? A. Never in the world. I never saw him in my life. I don't know anything about it.

Q. State whether Mr. Dickey told you anything that he knew about it—if he knew anything about it? A. He did not.

Q. State if you have any information about what number of members of this White Brotherhood were in the county of Alamance and your means of information? A. All the means of information that I had while it was in existence was not good. I could not tell you with anything like accuracy; it would be a guess on my part. I think that there were at the time it was disbanded somewhere between one hundred and fifty and two hundred members in the county of Alamance.

Q. Why do you think that? A. There were ten camps and I think each camp would average fifteen or twenty. I think

my own camp had between twenty and twenty-five one or twenty-two.

Q. State whether at any time you belonged to an that county called the Constitutional Union Guard? initiated in June, 1869.

Q. By whom? A. By James A. J. Patterson.

Q. State the character of the obligation he admini you? A. Well, I never saw it but once and my know it could not allow me to speak of its character with like accuracy.

Q. I will ask you this—can you remember the lea tures of it? A. Yes, sir.

Q. I want to ask you particularly whether it contai provision——

Mr. BOYDEN. I would not ask him a leading mat

Mr. MERRIMON. I will put the question and wrong I am under the ruling of the court.

Q. I want to ask you particularly whether there wa vision in it that required its members to support the c tion of the United States as it was before the adoption fourteenth and fifteenth amendments? A. I don't thin was.

Q. [By the Chief Justice.] Do you known whethe was or not? A. I could not swear positively whether was or was not—I don't think there was. My best imp is that there was not.

Q. Do you know the general character of John W. A. I think I do.

Q. What is it? A. It is bad.

Q. Bad for what? A. For truth, honesty and morali

Q. Do you know a colored man in Alamance county l name of Joe Harvey? A. I have only know him since

Q. Can you speak of his general character—do you of it since 1867? A. I have never heard any one spe him since he came to my knowledge but what said he thief.

Mr. BOYDEN. That is not answering the question.

Q. Is that his common reputation there? A. That is his common reputation since I knew him. It was sometime in 1867. I never heard of the negro before.

Q. State anything that you may know about the first Ku-klux raid made through the town of Graham? A. At the first county meeting, which was sometime in March, 1869, there was a proposition made owing to the fact there was an armed police on the public streets of Graham during the night time to make a raid through the town of Graham.

Q. What sort of an armed police? A. It was understood to be negroes.

Q. [By Mr. Smith.] State what you know yourself about it? A. I have seen them myself on the streets.

Mr. MERRIMON. We have proved that it was so.

The CHIEF JUSTICE. Four negroes and one white man.

Q. Go on and state what there was about it? A. The proposition was made and I was asked whether I would agree to it or not. I told them I would if they would pass through the town quietly and not speak to any body there and do nothing but pass quietly through the town. I told them I would if they would pass through the town in quietude and not speak to any body there only to pass quietly through the town, that they might do so. There was a raid through the town a short time after that. Nothing was done that I know of. There was some firing. I don't know anything about that.

Q. You don't know what brought about that firing?

Mr. BOYDEN. Of your own knowledge.

A. I know nothing but from declarations.

Q State whether anything was said by Henry Holt, a colored man about it? A. That night after they had passed through the town, Major Badham, William A. Albright and Dr. Foust, Mr. Hunter and myself were standing talking on the corner of the street. Henry Holt came up with a gun in

his hand and said that he had fired at the Kuklux an
they had returned the fire—telling the point. He s
was hid around the corner of the fence.

Mr. BOYDEN. He was not asked that question.

Mr. GRAHAM. It does not make any difference w
the counsel asked it or not.

Mr. BOYDEN. I think the question is competent
withdraw my objection.

The CHIEF JUSTICE. The presiding officer think
competent with reference to the statement of Henry Ho
witness who testified on the stand that he was behind the
and that two of the Kuklux shot at him.

Mr. GRAHAM. In the ruling in Patterson's case
held that a material fact in the affair might be proved, alt
the witness had not been asked the question.

Q. What did you do after that. A. That was in March
a short time after that—in April—I called the second c
meeting and told them that the organization could not b
trolled, and that when men would start out that way on
something would happen and some fellow would do som
that was wrong and commit a crime, and that the thing
be disbanded, and I appointed a meeting two weeks he
when it was disbanded. That was the only raid ever ma
the organization.

Q. I ask you whether you knew any offences or ou
perpetrated by persons calling themselves Kuklux, and
whether it was done by your authority?

Mr. BOYDEN. I object to that.

The CHIEF JUSTICE. The presiding officer does n
upon what grounds you can ask for orders given by the w
to his men.

Mr. MERRIMON. He was the chief of the county.

Mr. GRAHAM. There has been an effort here to c
that all these outrages of whatever nature were done b
organization and that they had a political object and were
by authority of the chief. Mr. Long acknowledges th

occupied the position of chief and we think it competent to prove by him if he has known or has authorized any such proceedings on his part.

The CHIEF JUSTICE. The presiding officer understood him to say that he ceased to be chief after a certain time—sometime in 1869.

Mr. GRAHAM. The dissolution he says took place in 1869. Any irregularities committed in the county after that time we say were not done by that organization.

The CHIEF JUSTICE. That would be a matter for interence for the witness ceased his connection with the organization after that time.

Mr. GRAHAM. We contend that this was a bastard organization after that time. It is prior to that time that our question refers and we thought it was competent.

Mr. BOYDEN. We wish to be heard about that.

The CHIEF JUSTICE. Go on.

Mr. BOYDEN. The gentleman has made an allegation for us—he has put into our mouth an allegation we have not made. There has never been any charge by us that these acts were all done by command of the chief or by his authority. We say it was done by this organization or by these organizations, but whether the chief ordered this one or that one we do not say. The question to which I object is, was any of these raids after this time by your approbation? Did you give any order? It does not make any difference whether the witness gave an order or not.

The CHIEF JUSTICE. It is ruled out. The presiding officer holds that the witness can be asked if before the time it was dissolved he gave any orders.

By Mr. MERRIMON, (resuming.)

Q. State whether, before the time of the dissolution of this organization as you have described, you gave any orders for the perpetration of any offences? A. I never did in my life.

Q. State whether you gave orders against it? A. I did, sir, on one occasion.

Q. What was the occasion of your giving that ord
think it was John W. Long,—I am not sure—met
street one day and he told me some fellows were goi
Caswell Holt and I laid my hand on his shoulder and
whoever it was, "for God's sake not to do it," and I
and left him.

Q. How long was that before you dissolved it? .
about ten or twelve days, I don't remember distinctl
a short time.

Q. Soon after that you called them together? A.

Q. Has there been any such organization in the co
its dissolution to your knowledge? A. As the Whit
hood?

Q. Yes? A. None to my knowledge.

*Cross-Examination.*

By Mr. Boyden:

Q. We understand you to say you were chief of
A. Yes, sir.

Q. You were not only a member of the White Bro
but you were likewise a member of the Constitution
Guards? A. Yes, sir.

Q. You say you cannot undertake to give that oath
cannot.

Q. Do you know how that oath came in—did you
it before to-day [referring to the oath read during t
examination of this witness.] A. Yes, sir.

Q. When did you first see it? A. I prepared it
memory myself.

Q. It is in your handwriting? A. Yes, sir.

Q. When did you prepare that from memory? A
city of Raleigh, since I have been here.

Q. At whose request? A. At nobody's.

Q. Who did you give it to after you prepared it? A
it to Judge Merrimon.

Q. Did you ever offer it to the parties who summon
A. I did not.

Q. You prepared it here, and offered it to the other side you say? A. I prepared it and gave it to them.

Q. Look at that, sir, and read it over (handing to witness the oath produced by the witness, Peter Hughes, a copy of which is contained in the printed journal of proceedings on page 1249.) You have read it all over, have you? A. I have.

Q. I will ask you if that was not the oath? A. There are some parts of that that were in the oath, and some parts that were not.

Q. Just tell what parts were not? A. Just such parts as differ from the oath I prepared.

Q. You drew this up from memory. I ask you what part of this oath that you have just read over was not in the oath you administered? A. There is a by-law in it that was not in it.

Q. I am asking about the oath not the by-law? A. I cannot remember distinctly the words.

Q. Is there a single thing in that oath that was not in the oath you administered? A. Yes, sir.

Q. What? A. In regard to inducing all true conservatives to join.

Q. That was not in? A. No, sir.

Q. Was that in the explanation? A. That was in the explanation.

Q. But that was not in the oath. Is there anything else that was not in the oath? A. Well, from reading it over just one time I cannot point out exactly the words and parts of sentences that were not in the oath.

Q. Did anything strike you as not being in that? A. Just hand it to me again, if you please, and I will point it out.

Mr. GRAHAM. Perhaps the witness had better read it aloud as he goes on and point out.

Mr. BOYDEN. No, I do not care about his reading it aloud. I ask you if you see anything in the oath that was not in the oath you administered? A. I do, sir. "That you will "never reveal any of its edicts, orders or principles to any "person, not even a known brother, or that you are a mem-

"ber yourself or who are members," that was not in it.
"should you know or see any brother or his famly i
"upon by any radical or negro you will go to their as
"and render them all the aid in your power"—that w
"in it. "And should you hear the word of alarm giv
"you will go immediately to ascertain the cause, and te
"the aid in your power." That was not in it.

Q. That is all? A. Well, there are some words that form anything like a sentence that were not in it.

Q. But all the other ideas were in it? A. The i believe, were in it.

Mr. MERRIMON. That is not the oath which put in.

Mr. BOYDEN. We are not talking about the oat Boyd put in. I did not say he put it in.

Mr. MERRIMON. Who put this oath in?

Mr. BOYDEN. It does not make any difference wh it in. We are not upon that subject now.

Mr. MERRIMON. I think it is right for us to unde what the counsel are seeking to prove.

The CHIEF JUSTICE. They are enquiring abou oath, and are showing Mr. Long a printed paper, and a him to point out in that what was not in the oath whi took or administered. They must be allowed to go on with examination in their own way. That was a printed pape the witness was looking at?

Mr. BOYDEN. Yes, sir.

Mr. SMITH. It was not a printed paper, as introduc evidence, but it is printed in the evidence in this case.

Q. You say, if I understand you, that this part was not "That if any member or his family is in danger you will in "him or them of such danger, and if necessary to go to "assistance." You say that is not in that? A. I do no that. I said any brother or his family who was in dang being imposed upon by "a radical or negro" was not in it.

Q. You read the whole of it, and said that was not in it

I said I could not point out the parts of sentences. I did not want to take the whole. There was some words used in these sentences that were not in it.

Q. Was this in it, "If any member or his family is in dan-"ger you will inform him or them of such danger, and if "necessary, go to their assistance?" A. It was.

Q. You say the difference is in the word "radical?" A. "Radical or negro." There is where the difference arose between them.

Q. What did you say the difference was about revealing secrets? A. The clause "never to reveal the secrets of the order was in the obligation. There it says, "You are never to "reveal the secrets of the order even to a known brother."

Q. All the rest is right excepting "a known brother?" A. I don't know that all the rest is right. I know that is a difference between the two.

Q. That is all you point out? A. That is all I can remember.

Q. They had a right according to your opinion to reveal it to a brother member—to talk with him about it? A. Yes, sir.

Q. That is all the difference you see? A. That is all I remember of seeing.

Q. That don't say a brother member—we say that is a natural brother—a brother according to blood—read it, sir? A. It says, "Not even to a known brother"—it means a known brother of the brotherhood.

Q. That is the way you understand it? A. Yes, sir.

Q. Read it? A. This is what it says: "You will never "reveal any of its edicts, orders or principles to any person, "not even a known brother, or that you are a member yourself, "or who are members, and that you will obey all calls and "summons." That was in it.

Q. You have pointed out all the differences you can see between the oaths? A. All the difference that I can see where the sentences differed materially.

Q. You authorized one raid? A. I gave my consent to it.

Q. And that is all the raid you know anything ab
That is all that I ever gave my consent to. That is w

Q. Where were you on the night Outlaw was kille
was in the town of Graham.

Q. Was there any raid there that night? A. Yes,

Q. Where were you? A. I was in my room.

Q. How many did you see on the raid? A. I sa
many.

Q. Tell us how many as near as you can? A. A
ment would be guess. There may not have been m
twenty-five and there might have been eighty or a
My best recollection is that there were fifty or sixty.

Q. You saw that raid? A. Yes, sir.

Q. Do you know anybody that was there? A. I d

Q. You state that? A. I do, sir.

Q. You do not know a man who was there? A. N

Q. Not by hearing them speak before or since? A
in my life.

Q. You were chief of a county and saw the raid?
not chief of the county at that time.

Q. Who was chief then? A. I don't know. I do
that there was any.

Q. Did you attempt to stop it that night at al
did not.

Q. You sat quietly by? A. I did not attempt to st

Mr. Manager SPARROW. He did not say he sat

Mr. BOYDEN. I ask him.

The WITNESS. I said that I did not try to stop it.

Q. Did you hear any noise that night? A. I did.

Q. What sort of noise? A. I heard some halloaing,
and yelling.

Q. State what sort of shouting and yelling? A.
describe it.

Q. In what part of the town was that? A. At t
house.

Q. Did you hear any noise up towards Outlaw's? A. I did not.

Q. Who was with you—whom did you see there? A. I had a room mate, Mr. W. W. Staley.

Q. Did you see anybody at that meeting that night? A. I did.

Q. Who else besides these men that were disguised? A. I went around and woke up my brother-in-law. I am in the same house with him. I saw Mr. Hunter and James R. Fonvielle.

Q. Did you pretend to be afraid to go out and stop these things? Did you say anything about it? A. I don't remember whether I did or not.

Q. Try and recollect whether you did or not? A. I know very well I should have been afraid to go.

Q. But you don't know whether you said anything about it? A. I don't remember whether I said anything about being afraid or not.

Q. Tell us why you would have been afraid? A. Well, I would have been afraid to go among those disguised men for fear they might do me an injury. I did not know what their purposes were or anything about it.

Q. Then I understand you tell this court upon your oath whether you said so or not—that you would have been afraid to go out—you were afraid they might do you an injury? A. I said so, sir.

Q. Where were you at the time they made their first raid? A. I was in the town of Graham.

Q. What part of the town? A. I was in my room.

Q. What time in the night did they make that raid? A. I think it was about 10 o'clock—probably 11, I don't remember.

Q. Will you tell the court the object of that raid? A. The object of that raid was for the Kuklux to show themselves and to chase that armed police off the street.

Q. Anything else? A. Nothing else.

Q. Can you tell us when this raid was? A. It w
March, 1869.

Q. Will you tell us now when that colored police w
organized? A. I don't know anything about when
first organized.

Q. You live there in Graham, don't you? A. I do,

Q. Give us an idea? A. Well, I suppose it had been
for ten or eleven days, or nights rather.

Q. I ask you if you don't know that there was no
there until after this first raid that night? A. I know
contrary that the raid was made after the police were
and it was in consequence of that that it was done.

Q. Then they had no other object in it but to atte
drive the regular police of Graham from their duties
There was no regular police in Graham. There never
police before or after to my knowledge.

Q. I don't understand you. Was not there a police
Wasn't it organized by the commissioners? A. I don't
anything about that.

Q. What made you say it was not a "regular" police
A. There never was any there before or afterwards
knowledge.

Q. Was not that a regular police? A. I do not
whether it was regular or irregular. It was irregular
that it never was there before or after.

Q. I ask you if you do not know that it was organi
the regular officers of the town? A. I do not know
thing about it.

Q. And without knowing whether it was regular or n
understand you, you authorized this raid to frighten them
their duties? A. I gave my consent to it.

Q. I ask you if you did not pretend to be very
frightened that night? A. I did not. I may have sai
I was scared, or something of that, but I was not very
frightened, I know that.

Q. I ask you if you did not pretend to be very much

ened? A. I may have said in the presence of a number that I was scared.

Q. But you were not scared, were you? A. No I was not. I never have been scared.

Q. What did you say that for? A. Well, I made it just in a jocular way. I don't know that I had any particular reason for it.

Q. What did you do when they passed your house? A. I did not do anything. I went and followed them up the street in company with two or three others, but I did not do anything.

Q. Was there not a piece of wood thrown from your house? A. No, sir, not that night.

Q. When was that? A. That was the night Outlaw was hung. I stepped to the door, and they halloaed "Lights out." The lamp was burning in my room. I paid no attention to it, and they threw a handful of pieces of fire wood that long [indicating the length of a foot] at me, and broke the window—broke out two panes of glass, and I then blew my light out.

Q. They had a light then? A. They had no light.

Q. I thonght you said they had a light? A. They had lightwood about a foot long that had been lighted at one end.

Q. It was out and not burning? A. It was not burning.

Q. Did you see them have Outlaw? A. I did not.

Q. I want to talk a little about Caswell Holt—what do you know about his being whipped? A. I don't know anything about it of my own knowledge. I remember that at the time there was some men arrested upon a warrant, and John S. Discon remarked to me that it was supposed that camp No. 3, which was Trollinger's camp, had whipped Caswell Holt. That is all I know about it.

Q. I ask you on the oath you have taken if you did not order it to be done? A. I never did in my life.

Q. Did you know about the order being given before he was whipped? A. I don't.

Q. I ask you if you did not make a speech yourself at one of the meetings in which you said that death was the proper

penalty and the only proper one? A. I never
speech.

Q. Didn't you do that at the meeting or the c
did not—I desire to explain. At the meeting
refer to at the time you say this speech was made,
about the charges made upon the Kuklux and I
was wrong—that it was a violation of the law and
not to do it, and some one in the crowd said "No
"Just suppose a case: suppose I rented a house to
"he left it—I ordered him out—and when he le
"house down. Don't you think something ought
"to him?" I told him "No. To try the law o
"that way. And in addition to that I said, "So
"individually concerned, if I should rent a house
"I ordered him away and when he went to leav
"down I would shoot him—and I would."

Q. You would do it, too? A. Yes, sir. I would.

Q. Didn't you say that was the only proper pen
things? A. I said what I have told you.

Q. Did not you in addition to that remark that w
said. A. I never did in my life.

Q. When did Pesher come there with his com
He came there about the latter part of March or
April 1869.

Q. Were they there when the raid took place?

Q. Before or after. A. Afterwards.

Q. I ask you if this organization of the police w
Pesher came there? A. No, sir, it was before t
the raid was made.

Q. Tell of any order in your camp or any other c
county that you know was issued to chastise anyb
never knew of an order in my life.

Q. You never heard of one before it was execu
never did, except what I have told you already.
issued any order, and never heard of any.

Q. You say that you administered the oath—that was your business—very often? A. Yes, sir.

Q. I ask you now if you administered it from a written or printed paper, or from memory, which was it? A. I never administered the oath from a printed paper in my life. I have administered from a written paper, and also from memory.

Q. Did you ever see a printed oath while the organization was in existence? A. Of the White Brotherhood?

Q. Yes, sir, or the other? A. I saw the printed constitution and oath of the Constitutional Union Guard, I never did of the White Brotherhood.

Q. But you had a copy of it written, and you administered the oath from it? A. Yes, sir, part of the time, and part of the time from memory.

Q. What has become of that? A. I do not know.

Q. You don't know what has become of it? A. It is lost or destroyed or something done with it. I don't know what has become of it.

Q. I wish you now to state as near as you can from the best information you had how many there were in the county belonging to either? A. In regard to the White Brotherhood, I said that I thought the number was somewhere between one hundred and fifty and two hundred. My means of information were not good. That is my best impression that they were about that many.

Q. While you were chief of the county did not you have very good means of knowing the number? A. No, sir, I did not meet every camp.

Q. How many camps were there in the county? A. I think there were ten.

Q. Did you know all the chiefs, every man of them, at one time? A. Yes, sir, I think I knew them all.

Q. Name them all? A. I was chief of camp No. 1, Jasper N. Wood was chief of No. 2, John T. Trollinger of camp No. 3, Albert Murray of camp No. 4, George Anthony of camp No. 5, David Mebane of No. 6, William Stockard of No. 7,

John Durham of No. 8; I have forgotten who was
camp No. 9, and Job Faucett was chief of camp No. 1(

Q. Number 9 you do not remember? A. No, sir.

Q. [By Mr. Badger.] Tickle, was it not? A.
Tickle, I never knew that he had anything to do wit
suppose he and John Long had an independent squad.

Q. You stated a conversation you had with John V
in reference to something that was about to be done?
sir.

Q. Tell us about it? A. I told you about it. Do y
me to repeat it?

Q. Yes, sir, I want that repeated? A. I met him
street—I think it was him, but I am not sure, and he
up to me and said, "Some fellows are going to hang
"Holt," and I replied immediately, "Go and tell th
"God's sake not to do it," and turned away and left hi

Q. You were a chief of the county, then? A. Yes,

Q. And you took no other means to stop it? A. I
that. That is all I told him.

Q. And that is all the means you took to stop it?
is all the means I took.

Q. What did you say about William R. Tickle? A.
knew that he belonged to it at all. I think he and Jol
had an independent squad of their own, I don't know

Q. You swore that these men the night that Outl
hung were disguised? A. All that I saw were.

Q. Wearing the disguises you used to wear when y
chief? A. I think some had on white and some had c

Q. Well, sir, about the black—which part wore th
A. I think the Constitutional Union Guard required
disguise.

Q. Then they were the same kind of disguises they
that night that they wore when these organizations wer
operation? A. Yes, sir.

Q. I wish to explain to the court this fact:—you
saw these persons that night wearing the very uniform

very disguises, and yet I understand you to say that these organizations had been disbanded before that? A. I stated that.

Q They were not in operation then you say? A. The White Brotherhood had been disbanded in May or the first of June, 1869. The Constitutional Union Guard I never said were disbanded.

Q. Then there was a part of the organization, as far as you know, still in existence? A. I was initiated into the Constitutional Union Guard in June, 1869, and was elected south commander of a klan. I never held a meeting in my life.

Q. But I say you know nothing about the disorganization of that party? A. No, sir, nothing in the world. That is all of my knowledge. It extended to just that one time.

Q. All you know about your's being disorganized is that you had given some orders? A. At the meeting of the chiefs?

Q. Yes, but you don't pretend to tell this court that they did not act as they did before? A. I don't know anything about that.

Q. Then you only tell the court that you gave such orders, but whether any of them were carried out or not you do not know? A. I did not give it as an order, it was agreed.

Q. It was an agreement? A. It was an agreement of the chiefs that there should never be another meeting, nor another member initiated into the White Brotherhood and after that I don't know whether there ever was a meeting held or not, or whether another member was initiated or not.

Q. I want you to state this—do you know that they did not go on initiating and acting just as they had before? A. I told you I did not know whether they did or not.

Q. Do you know the men who were arrested in Alamance by Kirk? A. I was not in Alamance when Kirk was arresting his men.

Q. Were you there after they were arrested? A. I was not there until after Kirk left.

Q. When did you leave the county? A. I left the 24th of

June and went to Hillsb
Mr. Ruffin.

Q. Where did you go
I waited until the final a
of *habeas corpus*, and wh
and staid away until afte
returned.

Q. What made you fe
Kuklux? A. I had bee
arrested and tried before
would not be.

Q. When did you con

Q. Last December?

Q. I want to ask you
A. I never saw but one
Burgen.

Q. I am talking about
held in custody. A. Or
told me.

Q. Do you know whe
of the order? A. He n

Q. Of either? A. N

Q. Do you know tha
not.

Q. Do you know that
remember whether I eve
pression is that he told m

Do you know before
Holt ——

Mr. GRAHAM. I ob

A. I do not.

Q. William Tate?

Mr. MERRIMON. I
counsel ask if it was befo
with the brotherhood.

Mr. BOYDEN. I ask

The CHIEF JUSTICE. He says he does not know anything about that, that after he quit the organization he had nothing more to do with it or to say about it. So what knowledge he has must have been gained while he was chief.

Q. Do you know William Tate was a member? A. I do not know the man—no, sir.

Q. Do you know Alexander Patton was one? A. No, sir.

Q. Jesse Gant? A. No, sir.

Q. Josiah Thompson? A. No, sir.

Q. Sidney Steel? A. I do not know him.

Q. George Johnson? A. I do not know him.

Q. William Patterson? A. do not know.

Q. Joseph Reed? A. I do not know such a man.

Q. Benjamin McAdam? A. He was.

Q. Thomas Ray? A. I do not know such a man.

Q. Joseph Prichard? A. I do not know him.

Q. Loften Tear? A. I do not know.

Q. Joseph Thompson? A. I don't know.

Q. William Andrews? A. He was. You mean William M. Andrews, that is the only one I know.

Q. Well, William? A. I don't know only one William Andrews, and his name was William M. Andrews.

Q. He was a member? A. Yes, sir, Wil'iam M. was.

Q. M. N. Shaw? A. I don't know him.

Q. John Long? A. John Long?

Q. John Long—it is put down here—a man that was apprehended? A. I don't know but one John Long, he was not a member—a very old man.

Q. Joseph Gibson? A. I don't know.

Q. Henry Pritchard? A. I don't know.

Q. Joseph Nelson? A. I don't know.

Q. James R. Murphy, Jr.? A. I don't know.

Q. William Kirkpatrick? A. There are two William Kirkpatricks, one was a member.

Q. Thomas Grey? A. Yes sir.

Q. Frank Mebane? A. I don't know.

Q. John W. McAdam? A. do not know him.

Q. William Moore? A. I don't know.

Q. William Clendenen? A. I don't know.

Q. D. W. Weedon? A. He was.

Q. Daniel Moses? A. I don't know him.

Q. P. Thompson? A. I don't know whether member or not.

Q. David Moore? A. I don't know.

Q. Monroe Fowler? A. I do not know.

Q. Henry C. Hurdle? A. He was.

Q. William Whitsett? A. He was.

Q. J. G. Moore? A. I don't know.

Q. Joseph Kirkpatrick? A. I don't know him.

Q. William V. Montgomery? A. I don't know.

Q. Calvin Gibson? A. I do not know him.

Q. William Stockard? A. He was.

Q. James Dickson? A. I don't know him.

Q. What Dickson was that you referred to? A. Dickson I spoke of.

Q. K. A. Albright? A. I don't know him.

Q. John Curtis? A. I don't know.

Q. A. Thompson? A. I don't know.

Q. Robert Stockard? A. He was.

Q. James S. Scott? A. I don't know.

Q. John Smith? A. I don't know.

Q. George Andrews? A. I don't know George at all.

Q. Milton Pickard? A. I don't know.

Q. Henry Robertson? A. I don't know.

Q. Joseph Stockard? A. I don't know, sir, wh was or not.

Q? John Curtis? A. I don't know him.

Q. You say of the "White Brotherhood" the have been two hundred? A. Yes, sir, there might h

Q. How many do you think there might have bee Constitutional Union Guard? A. I don't know,

knew. The klan I was a member of and what Mr. Patterson told me of the klan he was a member of—that is all I know. The klan I had I think numbered about ten. There never was a meeting of the klan. I don't know the number of Patterson's klan.

Q. You will state exactly this conversation now that you and Boyd had. I want you to state if it was not standing by a gate and I want you to repeat distinctly what the conversation was according to your best recollection and whether it was Monday after Stephens was said to have been murdered? A. I recollect it was a short time afterwards, whether it was Monday or Tuesday I do not remember distinctly. The place I don't remember. I think we walked out of the room and stopped on the street and were in conversation, whether it was a gate post or a fence post I don't know—it made no impression upon my mind except as it was called up again.

Q. Repeat just as near as you can the very language according to your best recollection? A. According to the best of my recollection the conversation as I said before was in regard to the matter of Stephens. I remarked to him that I was not as much surprised—this is the substance and the words as near as I can recollect——

Q. You say he expressed himself as surprised? A. Yes, sir. I said to him that "I am not as much surprised as you are"—that is the substance of it—"I am not as much surprised at "the murder of Stephens as you, for Mr. Dickie came over "here a few days ago and he said he had made himself very "odious to the people of Caswell and that it was understood that "he was advising the negroes to burn barns in case there were "any Kuklux demonstrations in Caswell," and he said, "I "would not be surprised if they would attend to his case,"—"something to that amount—I don't remember the words distinctly.

Q. He would not be surprised if the Kuklux would attend to his case in consequence of this? A. Yes, sir, "if there were "any there." It was a mere incidental remark in the conver-

sation and made no impression on my mind at all m
an ordinary remark.

Q. You say you have a distinct recollection that you
weren't so surprised at it? A. I think that was my re

Q. Was it Dixon that said he would not be surprise
Kuklux attended to his case? A. Dickie.

Q. I understood you to say that you could not pre
recollect the oath of the Constitutional Union Guard?
sir, not with accuracy. I never saw it but once no
of it.

Q. Do you know McAllister? A. Colonel McAllis

Q. Yes? A. Yes, sir.

Q. Do you know whether he was a member of either
organizations? A. I do not. He was not a member
was a member of the White Brotherhood. If he was
heard of it.

Q. According to that answer you seem to know t
know everybody that was in it?

The CHIEF JUSTICE. You have been told not t
except of your own knowledge.

Q. I only ask you if you knew? A. I don't know,

Mr. MERRIMON. I would like to know the object
question.

Mr. BOYDEN. It is to prove a greater number if p
than have been proved already.

The CHIEF JUSTICE. We cannot tell only that
arrested and examined.

Mr. MERRIMON. He was not arrested.

Mr. BOYDEN. I know he was not arrested but w
to make out as large a number in that county as possib

Mr. MERRIMON. Are you going to impeach him

Mr. BOYDEN. It is not for the purpose of impe
him.

*Re-Direct-Examination.*

By Mr. MERRIMON:

Q. You said that you had prepared the oath they submitted to me? A. Yes, sir.

Q. State whether you prepared it upon consideration and you were satisfied with it as the oath that you administered? A. I did, sir. I prepared it upon consideration.

Q. State whether I examined you about it until after you had been repudiated on the other side as a witness? A. You did not, sir.

Q. Have you been here for thirty days? A. I have.

Q. Have you ever been discharged by the other side? A. No, sir.

Mr. BOYDEN. I would ask the gentleman what he means by repudiating. We did not know until the last minute but what we would examine him.

Mr. MERRIMON. I understood six or seven days ago that you would examine him.

Mr. BOYDEN. We thought we might examine him until the last hour.

Q. [By Mr. Boyden.] What do you mean by being repudiated? A. I did not understand the judge [Mr. Merrimon] to say that.

The CHIEF JUSTICE. Yes, they asked if they had repudiated you and you replied affirmatively.

The WITNESS. I misunderstood it decidedly.

The CHIEF JUSTICE. Probably the counsel for the managers supposed that the counsel for the respondent had discharged the witness.

Mr. MERRIMON. Yes, sir, I had thought so.

Senator JAMES W. GRAHAM, *a witness on behalf of the managers, being re-called, testified as follows:*

By Mr. MERRIMON:

Q. Do you know Jacob A. Long? A. I do.

Q. Do you know his general character? A. I think I do.

Q. Whait s it? A. I have never known a young man of better character in my life.

*Cross-Examination waived.*

JESSE GANT, *a witness, being re-called on beh managers, duly sworn, testified as follows:*

By Mr. MERRIMON:

Q. State to the court whether you know Jacob A. Yes, sir. I have known him ever since he was a was born and raised in my neighborhood.

Q. What is his character? A. I think it is not sur any young man in Alamance to-day. He is a youn are proud of.

*Cross-Examination.*

By Mr. BOYDEN:

Q. Have you heard of his being in the Kuklux? heard of it.

Q. Did that affect his character any? A. It has with some.

Q. But only with the republicans? A. Well, I dc

Q. Has it with you any? A. Well, that is yo about it.

Q I say has it affected your opinion of his chara Well, I said that he was a young man of the best c know of in Alamance county.

Q. That is not answering my question. I ask character has been affected any by the fact being known that he was the chief of the Kuklux in the A. I have no doubt that some think less of him on tha

Q. Has it affected him generally or only just wi A. I don't think it has.

By Mr. GRAHAM:

Q. Having dissolved the organization in 1869, has him or not at all? A. Well, it has affected him wi individuals that are very easily affected by anybody take part with them. I don't think it has any effect way.

Q. His moral character is untainted by it? A. As n any young man I know.

ALEXANDER C. McALLISTER, *a witness on behalf of the managers, being re-called, testified as follows:*

By Mr. MERRIMON:

Q. Do you know Jacob A. Long of your county? A. Yes, sir, I have known him for probably two years.

Q. Can you say that you know his general character? A. I never heard anything alleged against him. It is good so far as I do know.

*Cross-Examination.*

By Mr. BOYDEN:

Q. You never knew his character until within the last two years? A. No, sir.

Q. And that was since the fact was disclosed that he was the chief of the Kuklux was it? A. No, sir, I never knew that until last summer. It was not disclosed until last summer.

Q. Has that affected his character any? A. Well, his action as chief of the camp did but not to his damage.

Q. Elevated him in the opinion of his friends, didn't it? A. His action as chief in disbanding——

Q. I want to know about the other part.

Mr. MERRIMON, [to the witness.] Tell what you wanted to, don't be stopped in that way.

The CHIEF JUSTICE. The best way is to answer the question and say nothing more.

Q. Didn't the fact that he had become chief of this association that was doing all the mischief—affect his character any? I am not talking about his coming out but the fact that he went into it and acted with them? A. His character in what regard?

Q. As to his moral character and upright character? A. I don't think it did.

Q. You think that his joining that organization did not affect him at all. What do you mean by saying that his coming out did do him good if going in did not do him any harm? A. Well, I think of course some people—a good

many—condemned the acts of the organization and d
approve of secret organizations of any kind, but I don't
it affected his character for truth or honesty or anyth
that kind.

Q. I am not talking about truth or honesty—his mora
acter going into such an organization? A. I cannot say

ZACHARY T. DICKEY, *a witness called on behalf
Managers, testified as follows:*

By Mr. BOYDEN:

I wish you to state with what view you propose to ex
this witness.

Mr. MERRIMON. Wait a moment and you will see.

By Mr. MERRIMON:

Q. State your age, your business and where you reside
I am a citizen of Yanceyville, Caswell county, and am a l
by profession.

Q. State whether at any time in the county of Alar
you have had any conversation with Jacob A. Long in
ence to the late John W. Stephens, and if you say you did
that conversation as nearly as you can.

Mr. BOYDEN. With what view is that offered?

Mr. MERRIMON. They bring out, Mr. Chief Justic
declarations of Boyd which I do not mean to recapitulate
Boyd stated that Long told him that Dickey made a c
statement to him, they therefore come before the court an
make this question pertinent in that point of view. Bu
competent upon another ground, to-wit: confirm the state
that Long has made here; they have sought to impeach
This is competent to sustain him by showing the corre
of the report of Dickey's conversation which he (Long) te
he gave to Boyd.

The CHIEF JUSTICE. The presiding officer will no
the objection on the other side.

Mr. BOYDEN. I am inclined to the opinion that it i

petent for that object but no other. That is my impression which I state candidly.

Q. State all you know about it, when and where? A. I was in Graham in March or April, I forget which, I met Mr. Long and we were talking about the barn-burnings that had occurred in Orange county, and I remarked to him that it was understood in Caswell that Mr. Stephens had rendered himself odious to the people of Caswell on account of his supposed actions and advice to the League to burn barns, and I would not be surprised if there were such a thing as Kuklux there—if they did not do him some violence or something of that sort. I don't recollect the exact language I used—it was merely an incidental remark.

Q. State whether at that time you knew of any purpose of any organization to do Mr. Stevens violence? A I did not.

Q. State whether you ever heard of it? A. No, sir, I had not.

Q. State whether you at any time connected yourself with the White Brotherhood? A. Yes, sir, I joined the White Brotherhood.

Q. Where? A. In Graham, and was initiated by Mr. Long about the first of November, I think—the latter part of September or first of November.

Q. [By the Chief Justice.] What year?

A. 1868.

Q. Did this brotherhood that you speak of exist in Caswell county to your knowledge? A. No, sir.

Q. Do you know a colored man in Qaoceyville by the name of Tilman Brown? A. I do, sir.

Q. Do you know another man by the name of Arch Doll? A. I do, sir, I have known them ever since the 23d of June, 1869.

Q. Do you know their general character? A. I think I do.

Q. State what it is? A. Bad.

Q. Bad for what? A. Truth and honesty and morals.

Q. Do you say that of both of them? A. Yes, sir.

*Cross-Examination.*

By Mr. BOYDEN :

Q. You knew nothing about it until 1869 ? A. No, s

Q. It is since the murder of Stephens and since a trouble you have mentioned ? A. No, sir, before the r of Stephens.

Q. How long before ? A. I went there the 23d of 1869.

Q. How long before you became acquainted with ther Well, they have been living in Yanceyville ever since I been there.

Q. I did not ask that. I ask how long before you b acquainted with them ?

The CHIEF JUSTICE: The particular object is to whether you knew their general character before Ste death or only acquired it since.

A. I knew before.

Q. He was killed in May of the next year ? A. Yes, think so.

Q. Whom did you hear speak about these men abou time of Stephen's death ? A. I have heard a good man zens speak of him.

Q. Give us some of their names ? A. I have hear Neal.

Q. Before Stephens' death I am talking of ? A. Y

Q. Anybody else ? A. Yes, sir.

Q. Who ? A. Mr. Norfleet.

Q. When was that—how long before Stephens ? A. after I went there.

Q. How came you to be talking about these two c men ? A. I don't know how the conversation came up.

Q. You do not form any opinion of a man's charac hearing one or two talking about it ? A. I have heard a many citizens talk about it.

Q. Have heard a good many talk about these two c men before Stephens' death ? A. Yes, sir.

Q. Did you hear anybody but the democrats or the conservatives talk about it? A. Yes, sir. I heard negroes talk about it.

Q. Just name them? A. I know one of the parties was indicted for stealing——

Q. I am not talking about indictments? A. Well, I heard George Bigelow, a colored man, say that Arch Doll's character was bad.

The CHIEF JUSTICE. You may say that in consequence of their being indicted it was talked of more than it otherwise would have been.

A. I suppose it was.

Q. Is that the way? A. No, sir, his indictment had been very recent, sir,

The CHIEF JUSTICE. Then you need not talk about that.

The WITNESS. I say I heard colored men speak of it before he was indicted.

Q. And before Stevens was murdered? A. Yes, sir.

*Re-Direct Examination.*

By Mr. MERRIMON:

Q. I ask you whether these two men were not notorious about Yanceyville?

Mr. BOYDEN. That is not the kind of question to put to your own witness.

Q. I ask you to state how it was?

Q [By the Chief Justice.] You say you formed an acquaintance with their general character and it was not good? A. It was not, sir.

Q. I will ask you if this indictment was not since they have become witnesses? A. No, sir.

Mr. MERRIMON. We now ask to introduce the letters of which we spoke this morning, written by the respondent.

The CHIEF JUSTICE. The presiding officer will hear the authority of which the counsel [Mr. Bragg] spoke.

Mr. BRAGG. I have not been able to find the case to

which I have alluded though I feel confident that the
a case. It is a late one.

The CHIEF JUSTICE. The presiding officer
say that he has no recollection of any such case;—o
trary his general impression is that such cannot be th
of the court, because if the examination in chief were
opened, the respondent would be entitled to the same
and the case might be indefinitely extended. The
officer has known of cases where, upon a party statin
some particular cause he overlooked a matter, the c
discretion has allowed him to put in such evidence
as a matter of right.

Mr. MERRIMON. I have only to say that the
the afternoon recess is nearly to hand, and I think w
the authorities upon this point and present them in c
wards.

The CHIEF JUSTICE. The presiding officer wi
to see the authorities.

On motion of senator Gilmer, the hour of one o'
fifty-five minutes having arrived, the court then too
until three o'clock.

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## AFTERNOON SESSION.

The COURT re-assembled at 3 p. m., Hon. R. M.
chief justice of the supreme court in the chair.

The CLERK proceeded to call the roll of senators
following members were found to be present.

Messrs. Adams, Albright, Battle, Bellamy, Cook,
Cowles, Crowell, Dargan, Edwards, Eppes, Flemming
Graham, of Alamance, Hyman, Jones, King, Lath
better, Lehman, Linney, Love, Mauney, McClamm
mon, Moore, Morehead, Murphy, Norment, Robbin

vidson, Robbins, of Rowan, Skinner, Troy, Warren, Whiteside, Worth—36.

Mr. GRAHAM. The question which was pending at the time we adjoured was in reference to the admission in evidence of certain letters found on the letter book of the executive office. It may be rather a question of the application of the rule itself, but I beg to call the attention of the presiding officer and the members of the court to the decision in the case of Outlaw vs. Hirdle, found reported in 1 Jones 150. The marginal note is this:

"According to the practice in this state, a plaintiff may "introduce as many witnesses as he deems necessary to estab-"lish his case, and if the defendant brings in contradictory "testimony the plaintiff may call in others to corroborate the "first." The presiding officer of this body delivered the opinion of the court in the case and I desire to read from his opinion which will be found on page 163:

"The practice in North Carolina has been, and we think it "is sustained by good sense for a party to offer as many wit-"nesses as may be necessary to establish his allegation. If "the other party chooses he may rest the case, or he may call "witnesses in his turn, and the first party may call witnesses in "reply, and for the purpose of adding strength to the evidence "upon which he at first rested the case, Lord Kenyon who had "as much good sense as any judge that ever tried a case some-"where remarked, 'Is it worth while to jump till you get to "the fence.' That is, there is no use in meeting objections "until they are presented, or in filing up proof until it is made "necessary by what is done on the other side. After the "propounder had examined some witnesses as to the fact of the "handwriting, if he had proposed to call others to the same "fact, his honor might have put a stop to it, and asked for "what purpose are you doing this? Why consume the time "of the court and jury until you hear from the other side? "When the caveators called thirteen witnesses, who opposed "the propounders, six witnesses, and swore that they did not

"deceased? Did he put it amon
"was it found there at his death

I think the English rule as laid
it was, that a party was bound t
dence and substantiate his case, a
upon to introduce his evidence o
this case of Outlaw vs. Hurdle, t
offered in reply, was evidence t
offered in the outset, because it w
ing the opinion of witnesses as to
tator; but the court decided that
state that the plaintiff might st
duce his witnesses, and in his tu
witnesses in reply for the purpose
the evidence upon which he first r
tionably a matter of discretion an
independent of that discretion on
take this case of Outlaw vs. Hurdl
plaintiff is not bound to examine a
he relies to establish his case in
bound to examine all the witnesse
introduce all the documents. B
question of *quo animo*, of whether
these prisoners voluntarily before
state, or brought them before him

about the time the writs were to be returned before the chief justice of the state. The respondent has read in evidence sundry documents since—documentary evidence introduced by the prosecution, and he has also examined a multitude of witnesses—nearly a hundred, I believe, and we propose to read this evidence, in order to strengthen what we first alleged upon that point.

Mr. SMITH. Mr. Chief Justice, this evidence is offered if I understand it for the purpose of strengthening a point about which there was evidence given upon the first examination of witnesses on the part of the managers. The court will recollect that all the evidence in relation to what transpired before Judge Brooks was offered with the view of showing the *quo animo* of respondent and for the purpose of rebutting or defeating the effect of what was alleged in the answer, that the prisoners were voluntarily surrendered before the chief justice of the state. There has not been a particle of evidence since offered on that subject by the respondent, and I think the counsel will be unable to point to anything which goes to show a contrary view of that matter. The rule of law is as was decided in the Johnson will case by the gentleman's associate, Judge Merrimon, when he was on the bench, and affirmed by the judges of the supreme court on an appeal, and it is that, as a matter of right a party could not claim to introduce testimony to corroborate and strengthen that which had not been impeached by contradictory evidence, and that he must be confined to such evidence as tended to strengthen and corroborate that which had been weakened or to rebut affirmative evidence which had been offered. That such is the rule of law in civil cases is conceded by one of the counsel, Mr. Bragg, in what he has said. But he thinks there is an exception in criminal cases. I do not admit there is any exception—that the rule is different in a civil from that which applies to a criminal action, for in a criminal action the defendant has rights which are even better protected than they are in civil suits. It is not an iron rule of law, but it is a matter addressed to the sound discretion of the

judge, and it cannot be revised whatev
judge may decide, and on an appeal to a higher
tion of the judge below would not be over-ruled;
he may have done in that regard in the exercise
tion. In the Johnson Will case which I think
63 North Carolina Reports it was held that the
caveators upon the second introduction of testin
part was to introduce only such evidence as woul
that part of the case which had been weakened
evidence, or to rebut and disprove affirmative evi
against them.

The CHIEF JUSTICE. The presiding officer
opinion that this evidence cannot be admitted as
right. The case of Outlaw *vs* Hirdle referred to
sel for the managers [Mr. Graham] tends to prove
rule. There was a case in which there were six
prove the handwriting. Then the caveator offer
witnesses to prove the handwriting. Under the
rule strictly administered there could have been
troduced. Our court has adopted a modification
lish rule that wherever the opposite side introduce
tending to weaken the force of the testimony offer
first party have a right to bring forward testimony
oration. As far as the presiding officer underst
facts are as stated by Mr. Smith that the respond
attempted to disprove the facts sought to be pro
managers, and the case stands exactly where the
left it.

GEORGE BASON, *a witness called on behalf of*
*gers was duly sworn:*

Mr. SPARROW. We have simply introduced th
and had him sworn for the reason stated by the
the respondent in having two or three witnesses
were not examined. The testimony which we ha
having been ruled out the managers announce that
closed their case.

Senator GRAHAM, of Orange. Mr. Chief Justice, before the evidence is finally closed I desire to make a correction in my evidence as I find it reported. It is due to Governor Holden that I should have what I stated in my evidence correctly appear in the journal. On page 916 I am reported as saying, "I went to the depot, and when we got there I found "Mr. Turner sitting on the *outside* of the depot on the plat-"form in company with these armed men." It should be "on the inside of the depot." Then below, as it is printed, it says, "I will state the object I had in going there, and the reason "why I wished to impress his words upon my recollection "accurately was because I knew that Judge Brooks would "issue a writ of *habeas corpus*, and I supposed that other affi-"davits might be necessary *by reason* of the facts that occurred "on the application of Mr. Turner for his release." The words "by reason" should not be there. On the next page occurs this language, "He said that the general order was "that if anybody came with writs of *habeas corpus* to arrest "them, as that was the order of Governor Holden." What I said was, "He said that the general order was that if anybody "came with writs of *habeas corpus* to arrest them, *and that the* "*arrest of Mr. Turner* was by order of Governor Holden." These are all the corrections.

Senator FLEMING offered the following order:

*Ordered*, That no counsel shall be required to commence his argument on the day the argument preceding closes, but always on the day following: *Provided*, That no counsel shall occupy more than one day.

Pending the consideration of the order offered by Senator Fleming,

On motion of Senator Merrimon the court adjourned to meet to-morrow at 11 a. m.

# APPENDIX NO. 2.

## RITUAL &c., OF THE UNION LEAGUE.

### OFFICERS AND THEIR STATIONS.

The officers of a council of the U. L. A. are: A President, Vice President, Assistant Vice President, Treasurer, Secretary, Marshal, Herald, Sentinel and Chaplain.

The P. occupies the principal station in the room; V. P. and A. V. P. at opposite end and in front of the P.; T. at the left hand of the P.; Sec. at right hand of P.; M. near the V. P.; H. within the inner door; S. within the outer door, and Chaplain at the centre of the room, on the right.

### EMBLEMS.

Altar, Holy Bible, Declaration of Independence, Constitution of the United States, Flag of the Union, Censer of Incense, Sword, Gavel, Ballot Box; and Sickle, Shuttle, Anvil, or other emblem of industry.

### OPENING A COUNCIL.

The P. assumes the chair, and gives one rap with the gavel.

P.—I am about to open this council. Any present who are not members, will retire to the ante-room. Officers will take their respective stations.

P.—The Herald will close the doors.

P.—The Marshal will satisfy himself that all present are qualified and report.

The M. makes a careful examination and re
ingly.

P.—This council is now open for the dispatch

V. P. *responds*—So be it.

P.—The Marshal will drape the Altar.

The M. will place the Flag and Emblems up
the Books being open and the Sword lying acr
which position they will remain during the sessi

ORDER OF BUSINESS.

1. Calling the roll of officers.
2. Reading the minutes of preceding meeting,
of the same.
3. Initiation.
4. Election of officers at such meetings as th
properly occur.
5. Propositions for membership received and re
6. Reports of investigating committees on ap
membership, and balloting for candidates.
7. Reports of committees.
   1. Committee on the state of the union.
   2. Committee on finance.
   3. Special committees.
8. Unfinished business.
9. New business.

All business shall be conducted in usual parliam

The above order of business may be temporaril
a two-thirds vote.

After calling the roll of officers, the P. will fill
absentees by *pro. tem.* appointment, where the b
no provision for the same.

INITIATION.

*P.*—The marshal will ascertain if any are awaiti
into our Loyal League.

The M. will retire, make the examination, return, and in a distinct voice announce the names, residence and business of those in waiting, and hand the list to the P.

*P.*—The secretary will read the list of names.

The S. reads them aloud.

*P.*—Mr. secretary, have the names of these gentlemen been duly presented in open council, and balloted for and elected?

The S. answers according to the record. If a secretary *pro. tem.* is acting, who has not the records of the meeting at which the candidates were elected, members present may state the facts as the action had on each of the applicants, and the C. will judge whether they have been duly proposed and elected. Those who have not should be politely requested by the M. to retire for that evening.

*P.*—The A. V. P., accompanied by the M., will retire to the ante-room, and having in due form administered the pledge of secrecy to each and every one present, make known to them the objects of this League, and propound to each the requisite interrogatories as provided in the Ritual.

These officers will retire as directed, and the A. V. P., will address those present as follows?

"Gentlemen, before declaring the objects of this order, I am directed to require of each of you here present a solemn obligation of secrecy as to whatever may transpire in your presence. (Any one refusing to be thus obligated will be immediately dismissed,) viz:

"I, (each repeating his own name,) in the presence of Almighty God, do swear (those conscientiously objecting may affirm,) with an uplifted hand, to keep secret and at no time to reveal to any person or persons, or otherwise in any manner or form, so that at any time any part or parts of whatever may here transpire, or which may be made or become known by and in consequence of this my obligation of secrecy. So help me God and keep me steadfast in this my purpose and binding obligation.

The A. V. P. will then declare the objects, as follows:

"GENTLEMEN:—The objects of this organization a
serve our liberties as a people; maintain the supremac
the constitution and union of the government of th
States of America against all enemies, whether dor
foreign; secure permanently the ascendancy of Ameri
tutions and interests to ourselves and posterity; pr
strengthen all in their rights of property and person;
and sustain the education and elevation of the lab
make our organization the school for the prompt and
instruction of all men in the duties of American cit
The objects being thus defined, are you willing to pro

If answered affirmatively, the A. V. P. will procee

"GENTLEMEN:—To the questions now to be pr
you will answer under your obligation of secresy.

1st. Do you fully subscribe to the principles set fo
Declaration of Independence?

Answer to this and all other questions must be in
mative, or immediate dismissal follow.

2d. Do you acknowledge that your first and high
ance under God, is due the government of the Unit
of America?

3d. Will you pledge yourself to resist to the utmo
ability, even to the sacrifice of your life, all attempts t
or overthrow the government of the United States of

4th. Will you strive to the extent of your abili
maintenance of liberty, the elevation of labor, the
in the responsibilities and duties of American citizens
the people of this country; the practice of true
charity toward each and all of the order of which yo
to become a member, and for the election or appoi
all places of public trust of such men only as are reli
porters of these principles and measures?

5th. Do you hold and believe that secession is tr
that the action of the government of the United Stat
pressing the late rebellion was just and expedient?

6th. Do you pledge your active support to such l

both state and national, as will be effective in removing all the concomitants of slavery.

7th. Are you willing, and will you endeavor to extend to all men, the exercise of equal political rights, who have equal political responsibilities?

8th. Are you willing, and do you desire, to bind yourself by a solemn oath to the maintenance of the principles and policy indicated in the interrogatories to which you have now affimatively replied?

8th. Will you obey all rules and orders of the Union League of America, which shall not conflict with your lawful rights and privileges as a loyal citizen?"

The A. V. P. will then return to Council and report to the P., viz:

I have obligated the candidates in waiting, and made the proper examinations, and find them worthy and willing to proceed.

Unless the report be objected to by the marshal or other person the president will direct as follows:

P.—The marshal will conduct the candidates to our council.

The M. retires, and conducts the candidates to the door and makes the usual alarm.

H.—Who comes here under the private signal of our League?

M.—Candidates who, having been duly elected and examined, desire admission to our loyal band.

H.—Mr. President, the marshal announces candidates who, having been duly elected and examined, desire admission to our loyal band.

*P.*—The loyal and worthy are always welcome. Admit them.

The door is opened and the candidates, preceded by the M. enter in double file, arm in arm, and passing around the altar, are presented in front of the P.'s chair. As they enter the door the P. gives three raps of his gavel, which will call up

the C. The P. rising, the M. will introduce the
each by name.

While the candidates are coming in and taking t
around the altar, the P. may direct the C. to sing
more of some patriotic and appropriate Ode, as "T
our Union," "Rally Round the Flag, Boys," "Hail (
"Star Spangled Banner," etc., which may be printe
for the use of the C.

On signal from the P. the M. will conduct the
before the V. P. Members resume their seats, m
perfect silence during the presentation to the V.
livery of the address.

M.—Mr. Vice President, I have the pleasure of
these candidates for membership in our Union Lea

ADDRESS.

V. P.—"*Gentlemen:* This body was organized
rebellion of the southern states, for the purpose of
the government in its efforts to perpetuate its exis
the liberties for which our fathers fought. The g
pose of the organization has been happily accompl
the legitimate fruits of this triumph are to be seen
complete ascendency of the true principles of popul
ment, equal liberty, education and elevation of t
masses; preservation of our national honor and faith
ly affection and true charity toward all men. This
province and duty to instil into the minds and he
and to use our utmost endeavors to enforce. If s
ments of patriotism are implanted in your heart, w
with pleasure, for such only are capable of rising
level of the partizan and of claiming and defending
timable boon of freedom for its intrinsic value. I
tain these principles and policy we are united, a
purpose you are now required to take upon yourse
and binding obligation, which I assure you does n

in any way with the duties you owe to yourself, your country or your God. With this assurance on our part, are you willing to comply?

V. P. The candidates will face about and approach the Altar.

Here the P. calls up the C. by four raps of the gavel, in couplets.

*P.*—The Chaplain will invoke the blessing of Almighty God upon our undertaking.

PRAYER.

Eternal God, Supreme Architect and Ruler of the Universe! We humbly beseech thy protection for the loyal people of the United States of America, and more especially for the members of this patriotic Organization. Wilt thou be pleased to direct and prosper all our consultatiens to the advancement of thy glory, and the honor and welfare of this Nation. Aid and assist the co-ordinate branches of the Government in so fixing the foundations thereof, that peace, happiness, truth, liberty, justice and brotherly love may pervade their every action for all time. Save us, we pray Thee, from foreign foes and domestic traitors, and let us rejoice only in the noble cause of Constitutional Liberty, to be transmitted to the millions yet unborn. Unite us in love for our common country—attach us to the great principles of the Constitution—Liberty regulated by Law—fill us with reverence for Thee, and may thy Good Spirit guide, strengthen and comfort us now and forever. Amen.

Here, after darkening the room, the M. lights the fire of Liberty, to burn during the administration of the obligation; the members will be notified to join hands in a circle around the candidates and the Altar—the P. stepping within the circle.

When there are more candidates than can reach the I
Bible, they should be divided and obligated by sections.
The P. continues as follows:

Now place your left hand on the national flag and rai
right toward heaven, repeating after me the following

OBLIGATION.

I, (each repeating his own name,) with an uplifted h
the presence of God and these witnesses, do solemnly
(or affirm if conscientiously opposed,) without mental r
tion in me of any kind, that I will support, protect and
the Constitution and Government of the United Sta
America, one and indivisible, and the flag thereof,
all enemies foreign and domestic; that I will vot
for, and none but those, who advocate and supp
great principles set forth by this League to fil
office of honor, profit or trust in either the State e
eral Government, and that if ever called to fill any
will faithfully carry out the principles set forth by this I
And further, that I will protect and defend all worthy
bers of the Union League of America; and that I will n
any manner or form divulge or make known to any pe
persons not *worthy* members of this Organization any
signs, pass-words, grips, proceedings, designs, debates o
of this or any other Council of this organization, unless
engaged in admitting new members, and with my rig
on the Holy Bible, Declaration of Independence and t
stitution of the United States of America, I acknowled
self firmly bound and pledged to the faithful perform
this my solemn obligation, so help me God.

Response by the members—

*To this we pledge ourselves.*

*P.*—Gentlemen, around you is a band of brothers a

credly pledged. This circle is never to be broken by TREACHERY.

Response by the members—

*Never!*

*P.*—Brothers, will you enlarge your circle to admit new members?

Response by the members—

*We will.*

*P.*—Prepare then for accessions to your ranks.

The circle will here be opened and the new members admitted.

*P.*—With clasped and uplifted hands, repeat after me the Freeman's Pledge:

*To defend and perpetuate Freedom, Political equality and an indivisible Union I pledge my life, my fortune and my sacred honor. So help me God.*

Here follows a patriotic ode at the discretion of the C.

The members of the Council will now be seated, and the candidates will take their places before the Altar.

The P. will then deliver the charge as follows:

### CHARGE.

The oath which you have taken of your own free will and accord, cannot be violated without leaving the stain of perjury on your soul. You have declared that under God your first and highest allegiance is to the Government of the United States of America, one and indivisible. You have taken a solemn oath of allegiance upon the Holy Bible, Constitution and Declaration of Independence lying within the folds of the flag of the Union. These contain the enduring records of our rights and privileges. The symbols of industry which greet you upon the altar, are to remind you of the great purposes of our Order, and to represent the foundation upon which our institutions rest.

To strengthon and elevate this is to add to the grandeur and durability of the structure we uphold.

The Bible contains man's moral code, and the
religious faith. The Declaration of Independenc
self-evident truths that ALL MEN are created equal,
their Creator with inalinable rights to life, liberty
suit of happiness. The Constitution is an instrum
to practice the precepts of the declaration. It is
lated by law.

The sword is a weapon of defence and protecti
the light yon beheld burning upon the altar is emb
the sacred fires of liberty which burn forever in th
breasts of true patriots.

We inculcate the spirit of peace as essential to n
piness and prosperity, but when foreign foes o
hands attempt to rob us of our national inherita
gleaming swords leap from their rests to guard th
our liberties.

3 2044 017 94

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